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VIEW OF THE ACTION

OF THE

FEDERAL GOVERNMENT,

IN

BEHALF OF SLAVERY.

BY WILLIAM JAY.

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"WE, THE PEOPLE OF THE UNITED STATES, do ordain and establish this  
Constitution."—*Federal Constitution.*  
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UTICA:

PUBLISHED BY JAMES C. JACKSON.

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## VIEW, &c.

Our Fathers in forming the Federal Constitution entered into a guilty compromise on the subject of Slavery, and, heavily is their sin now visited upon their children. By that instrument, the continuance of the African slave-trade was guaranteed for twenty years;—a larger proportional representation in Congress and a larger vote in the election of the Executive, was accorded to the slave-holding, than to the other States:—the power of the nation was pledged to keep the slave in subjection; and should he ever escape from his fetters, his master was authorized to pursue and to seize him, in any and every of the sovereign States, composing our wide-spread confederacy.

We are not about to exhibit the corrupting influence of this compact on the religious sympathies and sentiments of our countrymen, in regard to slavery; nor is it our present purpose to trace the retributive justice of Heaven in that recklessness of human life, and in that contempt of human and divine obligations, which are hurrying on the slave States to anarchy and barbarism; or in the eagerness so generally exhibited by our northern politicians and merchants, to barter the constitutional rights of themselves and their fellow-citizens, for the votes and the trade of the South.\*

We propose simply to take a view of the action of the Federal Government in behalf of slavery,—a subject that has yet been but partially investigated; and we flatter ourselves,

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\* Before this language is condemned as harsh and exaggerated, we beg the reader to recall some of the prominent events of the last few years, connected with this subject:—the Lynch clubs and cruel inflictions of the South,—the sacking of the Charleston post-office,—the wholesale and unpunished murders at Vicksburg,—and the frequent burnings alive of negroes, and in particular, of McIntosh, taken by the citizens of St. Louis from the prison, chained to a tree, and consumed by a slow fire—and the advice of Judge Lawless to the grand jury, not to notice the diabolical atrocity, because it was in fact, the act of the community! As to the North, we point in our justification, to the innumerable mobs excited by politicians, against the friends of emancipation,—the various attempts made by the State authorities to propitiate the South, by a surrender of the freedom of speech, and of the press,—to the zeal of the merchants in our seaports, in getting up anti-abolition meetings,—to the conflagration of Pennsylvania Hall, and to the martyrdom of Lovejoy. In truth, our whole land is strewed with monuments of the wickedness and tyranny of slavery—monuments, which declare in no doubtful language, that our great national sin is not unheeded by Him to whom vengeance belongeth.

that in the course of our inquiries, we shall develope facts, which, with some at least of our readers, will possess the merit of novelty. These facts for the most part, derive their origin from

### THE FEDERAL RATIO OF REPRESENTATION.

The Constitution provides that the members of the Lower House of Congress shall be proportioned to the free inhabitants of the States they represent, *except* that in each State, three-fifths of the slave population shall be for this purpose considered as free inhabitants. In other words, every five slaves are to be counted as three white persons. For example, if by law every 60,000 free inhabitants may elect a representative, a district containing 45,000 whites and 25,000 slaves, becomes by the *federal ratio* entitled to a member. This stipulation in the Constitution has from the beginning given the slaveholders an undue weight in the national councils. A few instances will illustrate its practical effect.\* The whole number of the House of Representatives is at present 242; sent from 26 States. Of these, the following are *slave* States, viz:—Delaware, Maryland, Vir-

#### NOTE BY J. C. JACKSON.

\* At the time Judge Jay published his latest edition of the "View," the relative position of the North and South in Congress was different from what it is now. We think it best to let the *text* stand as it is, and insert in the form of a note the alterations which the last census and the apportionment law of 1841, render it necessary to make.

The whole number of Representatives in Congress is 275. Of these, the House contains 223, sent from 26 States; divided equally between the North and the South. At the last census, the slaveholding States had a *free* population of 4,740,427, and a representation in the House under the new law of 83 members; while the free States with a population of 9,335,571 have only 135 members in the House. One representative is allowed to 70,680 inhabitants, and in cases when the fraction exceeds 38,000, in a State, it draws an additional member. By this operation, Rhode Island, South Carolina, Alabama, Tennessee, Indiana, and Illinois, each gain a member.

Were the slaves not enumerated, the slave States would have but 67 members; their number of slave Representatives is therefore 21. If *FREE* population were the basis of representation in the Federal Government, as it is in the majority of the States, the slave States would have

	In the Senate,	13 members.
	In the House,	67
		—
	Electoral votes for President,	80
They have	In the Senate,	26 members.
	In the House,	88
		—
	Electoral votes for President,	114

The operation of this principle is seen in the estimate below:

Ohio with a population of 1,519,465, has 21 members; while Vir-

ginia, North Carolina, South Carolina, Georgia, Kentucky, Tennessee, Alabama, Mississippi, Louisiana, Missouri, and Arkansas. These States with a free population of 3,823,389, have 100 members; while the *free* States with a free population nearly double, viz. 7,003,451, have only 142 members. One representative is at present allowed to 47,700 inhabitants. Now were the slaves omitted in the enumeration, the slave States would have only 75 members. Hence it follows, that at the present moment, the slaveholding interest has a representation of TWENTY-FIVE members in *addition* to the fair and equal representation of the free inhabitants. There is certainly no good reason why the owners of human chattels, should by the fundamental law of a *Republic*, have greater privileges awarded to them than to the holders of any other kind of property whatever. But such is the compact; we seek not to change or violate it, but only to explain its operation.

Each State has as many votes for President as it has members of Congress. The rule of representation in the Lower House has already been explained; in the Senate it is different: and *each* State, whatever be its population, has two Senators, and no more. The free population of the slave States, as already stated, is *half* that of the others; but their *number* being equal, their representation in the Senate is also equal.

If free population were the principle of representation in the Federal Government, as it is with scarcely an exception in all the States, the slave States would have

In the Senate,	13 members.
In the House,	75
	—
Electoral votes for President,	88
	—
They <i>have</i> In the Senate,	26 members.
In the House,	100
	—
Electoral votes for President,	126

Here we find the secret of the power of the South, and of the obsequiousness of the North. Ohio, with a population

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with a *free* white population of 723,659, less than half that of Ohio, has 15 members; when on the principle of equal representation she would be entitled to but 10 members. Pennsylvania has 26 electoral votes; while South Carolina, Georgia, Alabama, Mississippi, Louisiana, and Kentucky, with a *free* population of only 263,032 more than Pennsylvania, have 52 electoral votes.



of 947,000, has 19 members; while Virginia with a free population of 200,000, LESS, has *two* members MORE. Take another example. Pennsylvania has 30 electoral votes; the States of South Carolina, Georgia, Alabama, Mississippi, Louisiana, and Kentucky, with an *aggregate* free population of 189,791 *less* than Pennsylvania, have 53 electoral votes!

It cannot be supposed that this vast and most unequal representation and consequent political power, will be unemployed by its possessors. On the contrary, the slaveholders in Congress have uniformly succeeded in effecting their objects, when united among themselves. In 1836, this slave power in Congress was adroitly turned to pecuniary profit. The Surplus Revenue remaining in the Treasury on the 1st of January, 1837, was to be distributed, and the rule of distribution became a question. The income, it is true, had been derived chiefly from the industry and enterprise of the North, but the South insisted, and with her usual success, that instead of dividing the money according to population, it should be apportioned among the States according to their *electoral votes*. By this rule, the slave States, notwithstanding their inferiority in population, would share alike with the free, so far as regarded the number of their Senators; and with regard to their representatives, they would secure an apportionment of money on account of three-fifths of their two millions of slaves.

The sum allotted by this gross and monstrous rule to the States of South Carolina, Georgia, Alabama, Mississippi, Louisiana, and Kentucky, was \$6,754,588; while Pennsylvania with a free population *larger* than that of all these six States together, was to receive only \$3,823,353; so that in fact the slaveholders of these States received man for man, just about twice as many dollars from the national Treasury, as the hardworking citizens of Pennsylvania! Now as the free States have a numerical majority of members, it is important to investigate the SOURCES OF THE SLAVEHOLDING INFLUENCE IN CONGRESS. These may be regarded as three-fold; first, their anxiety to protect and perpetuate slavery, renders the southern members united in whatever measures they consider important for this purpose, while the representatives from the North, having no common bond of union, are divided in opinion and effort. Secondly, a slave State having more votes to bestow on a presidential candidate, and more members in Congress to support or oppose the administration than a free State of equal white population, is of course of greater consequence in the estimation of politi-

cians; and hence arises an influence reaching to every measure, and weighing upon every question. The peculiar character of the southern gentlemen, together with their observation of the servility of the northern politicians, have induced them to resort, and with great success, to INTIMIDATION as a third means of influence.

The practice adopted by the slaveholders of threatening on all occasions to dissolve the Union, unless they are permitted to govern it, has been too long and firmly established to need illustration. We will at present merely give a few recent instances of outrageous menaces and to justify what we have said of the servility of northern politicians, it is sufficient to observe, that these menaces were unrebuked.

On the 18th of April, 1836, a petition against the continuance of slavery in the District of Columbia was presented to the House of Representatives, when Mr. SPEIGHT of North Carolina declared in his place, that "he had great respect for the chair as an officer of the House, and a great respect for him personally, and *nothing but that respect* prevented him from rushing to the table and *tearing that petition to pieces.*" Of course it was to be understood, that the order of the House and the rights of northern petitioners were respected not from any constitutional obligations, but solely because the speaker, himself a slaveholder, was acceptable to southern gentlemen.

Mr. HAMMOND of South Carolina, the same session, in a speech, used the following language: "I warn the Abolitionists, ignorant, infatuated barbarians as they are, that if chance shall throw any of them into *our hands*, he may expect a *felon's death.*"

Mr. LUMPKIN remarked in the Senate, (January, 1838,) "If Abolitionists went to Georgia, they would be *caught*:" and Mr. PRESTON declared in the same debate—*Let an Abolitionist come within the borders of South Carolina, if we can catch him, we will try him, and notwithstanding all the interference of all the governments on earth, including the Federal Government, we will HANG him.*"

It seems probable from these declarations that Abolitionists, in their southern travels, will meet with "barbarians" quite as "ignorant and infatuated" as themselves; and also, that should members of Congress, by their votes, imprudently identify themselves with Abolitionists, and afterwards enter the slave region, they could not complain of not having been explicitly warned that the gibbet was to be their fate.

Such are the sources of the slaveholding influence in Con-

gress. The following pages will exhibit many of the results of this influence, and the first to which the reader's attention is called, is

#### THE OBSEQUIOUSNESS OF THE PRESIDENTIAL CANDIDATES.

As slaveholders are ready to hang Abolitionists when they can "catch" them, it is not to be supposed that they will elect any of the proscribed sect, President of the United States. Of course, it becomes important for such gentlemen as aspire to that honor, that their ideas on the subject of human rights, should be adapted to the meridian of the slave region.

Previous to the last presidential canvass, Mr. VAN BUREN being a candidate, thought it prudent to write a letter for publication, containing the following passage:—"I prefer that not only you, but all the people of the United States, shall now understand, that if the desire of that portion of them which is favorable to my election to the chief magistracy should be gratified, I must go into the presidential chair *the inflexible and uncompromising opponent* of any attempt on the part of Congress to abolish slavery in the District of Columbia, *against the wishes of the slaveholding States.*"

Mr. WHITE was a rival candidate, and deemed it expedient to give his pledge also, which he did in these terms:—"I do not believe Congress has the power to abolish slavery in the District of Columbia; and if that body did possess the power, I think the exercise of it would be the *very worst policy*. Holding these opinions, I would act on them in any situation in which I could be placed, and for both reasons would, if called on to act, *withhold my assent to any bill having in view such an object.*"

GENERAL HARRISON, a third candidate, also as we have understood, wrote his letter, but not having it before us cannot quote it. We presume, however, it was thought sufficient, since an address in his behalf from his political friends in Virginia, assured the public that "*he is sound to the core on the subject of slavery.*"

Mr. WEBSTER, the fourth and last candidate, had many years before fully committed himself as to the power of Congress over slavery in the District. He gave no pledge, and received no vote from any slave State.

Having thus seen the extent of the slaveholding power in Congress, and in some degree, its influence over political partizans, we are prepared to investigate its direct action in



protecting and perpetuating the institution of slavery in the United States. The friends of that institution have always looked with distrust and alarm upon the free colored people, and have deemed it good policy to treat them with ignominy, and to prevent their acquisition of power and influence: Hence the

#### EFFORTS OF THE FEDERAL GOVERNMENT TO OPPRESS AND DEGRADE THE FREE PEOPLE OF COLOR.

The Constitution of the United States acknowledges no right or disqualification founded on complexion; but those who have administered it, have made the tincture of the *skin*, of far greater importance than the qualities of either the head or the heart. So early as 1790, Congress passed an act prescribing the mode in which "any alien being a WHITE person," might be naturalized and admitted to the rights of an American citizen.

Two years after, an act was passed for organizing the militia, which was to consist of "each and every free, able-bodied WHITE male citizen," &c. No other government on earth prohibits any portion of its citizens from participating in the national defence; and this strange and degrading prohibition, utterly repugnant both to the principles of the Declaration of Independence and of the Constitution, marks the solicitude of the Federal Government to pursue the policy most agreeable to the slaveholders. But not content with this insult to colored citizens, another, and perhaps a still more wanton and malignant one, was offered by the Government in the act of 1810, organizing the Post Office Department. The 4th Section enacts that "no other than a free WHITE person shall be employed in carrying the mail of the United States, either as a post-rider or *driver* of a carriage carrying the mail," under a penalty of fifty dollars.

Any vagabond from Europe, any fugitive from our own prisons, may take charge of the United States mail; but a native born American citizen, of unimpeachable morals, and with property acquired by honest industry, may not, if his *skin* be dark, guide the horses which draw the carriage in which a bag of newspapers is deposited!

Such are the insults heaped by the Federal Government on the colored citizens throughout the States: let us see what conduct it pursues towards them *on its own territory*, over which it possesses "exclusive jurisdiction."

In 1820, Congress passed a law authorizing the WHITE citizens of the City of Washington to elect WHITE city offi-

cers; thus making a *white skin* an indispensable qualification for both suffrage and office. The *white* officers thus elected by the *white* citizens, were specially empowered by the National Legislature "to prescribe the terms and conditions on which *free negroes and mulattoes may reside in the city.*" In pursuance of this grant of power, the *white* officers passed an ordinance (May 31, 1827,) requiring all the free colored persons then in Washington and wishing to remain, to be registered; and enacting, that if any free man with a colored skin should presume to *play at cards*, or even to be *present* while *another* free colored person was playing, he should be fined not exceeding five dollars; that if he should have a *dance* in his house, without permission from the *white* Mayor, he should be fined not exceeding ten dollars; that should he take the liberty to go out of his own house *after ten o'clock at night*, without a pass from a Justice of the Peace, or "some respectable citizen," (!) he might be compelled to pass the rest of the night "in a lock-up house," and the next morning be fined ten dollars; and should any dark complexioned free man be guilty of drunkenness or profane language, he should be fined not exceeding three dollars. Thus we see with what zeal the Washington Corporation endeavors to prevent the colored citizens from affecting the manners and fashions of their white brethren. But there are still more serious matters. A colored citizen from any of the States, taking up his residence in the Capital of the Republic, is required within a certain time, not only to be registered, but also to find *two freehold sureties* in the penalty of five hundred dollars, for his good behavior; and if he does not, he is to be imprisoned till he consents to leave the seat of the Federal Government; and if he does not *prove* that he is a freeman, he shall be *sold as a slave to pay his jail fees!!*

Such are the abominable and iniquitous means used by and with the sanction of Congress, for the degradation and oppression of colored citizens. We are next to take a view of

#### SLAVERY UNDER THE AUTHORITY OF THE FEDERAL GOVERNMENT.

It is well known that Congress is the local Legislature of the District of Columbia, and of all the territories belonging to the Union, and with powers far exceeding those possessed by any State Legislature, being unfettered with constitutional restrictions. The authority vested in Congress over the District and territories, is virtually despotic, being an "ex-

clusive jurisdiction in all cases whatsoever." Yet we have long had slaveholding territories. The vast domain acquired by the purchase of Louisiana, has, under the authority of Congress, been stocked with slaves, excepting so much as is north of  $38\frac{1}{2}$  degrees north latitude, which is, by act of Congress, specially protected from the pollution. This very law is one of the most profligate and decided acts of the Federal Government in behalf of slavery; for by means of it, the immense territory south of this line was deliberately surrendered to all the cruelties and abominations of the system: it was moreover an express acknowledgment by the Government of its power to prohibit slavery throughout the *whole* territory, and that it had made a COMPROMISE, a bargain between humanity and cruelty, religion and wickedness; and had erected on an arbitrary line, a partition wall between slavery and liberty.

But it is in the District of Columbia, and under the shadow of the proud Capitol, that the action of the Federal Government in behalf of slavery, is exhibited in its most odious and disgusting forms. We shall have occasion presently to exhibit the seat of the National Government, as the great slave mart of the North American Continent, "furnished with all appliances and means to boot." The old slave laws of Virginia and Maryland, marked by the barbarity of other days, form by Act of Congress, the slave code of the District. Of this code, a single sample will suffice. A slave convicted of setting fire to a building, shall have his head cut off, and his body divided into quarters, and the parts set up in the most public places! But let it not be supposed that Congress has not itself legislated directly on the subject of slavery. An Act of 15th May, 1820, gives the Corporation of Washington, power to "punish corporeally any SLAVE for a breach of any of their ordinances." Happy would it have been for the honor of our country, if the sympathies of its rulers in behalf of slavery, had been exhibited only on the national domain; but they pervade every portion of the confederacy, as is but too apparent in

#### THE INTERFERENCE OF THE FEDERAL GOVERNMENT FOR THE RECOVERY OF FUGITIVE SLAVES.

The Federal Constitution contains the following clause: "No person held to service or labor in one State under the laws thereof, escaping into another, shall in consequence of any law or regulation therein be discharged from such service or labor, but shall be delivered up on claim of the party to whom such service or labor may be due."

At the time this Constitution was adopted, the cultivation and manufacture of cotton had not so far progressed, as to paralyze by their profits, the conscience of the nation, or to divest it of the sense of shame; and hence this clause, although relating to slaves, forbears to name them. It was inserted to satisfy the South; and its obvious meaning is, that slaves escaping into States in which slavery is abolished by law, shall not *therefore* be deemed free by the State authorities, but shall be delivered by those authorities, to his master. This clause imposes an obligation on the States, but confers no power on Congress; and the Constitution moreover declares, that "the powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people." Hence it follows that as the power of recovering these fugitives is not delegated to Congress, it is reserved to the several States, who are bound to make such laws as may be deemed proper, to authorize the master to recover his slave. Nevertheless, the Federal Government in its zeal for slavery, has not scrupled to assume power never delegated to it, and has exercised that power in gross and contemptuous violation of every principle, which in free countries, directs the administration of justice. If a Virginian enters New York, and claims as his property a horse which he finds in the possession of one of our citizens, an impartial jury is selected to pass on his claim,—witnesses are orally, and publicly examined,—the claimant is debarred from all private intercourse with the jury,—he may not be alone with them for a moment, nor may a whisper pass between them; and when the trial is over, the jury retire to deliberate on their verdict, under the charge of an officer, who is sworn to keep them apart, and not to suffer any person to speak with them; nor can the horse be at last recovered but with the unanimous consent of the jury. But let the Virginian claim, not the horse, but the **CITIZEN HIMSELF** as his beast of burden, and the Federal Government makes all things easy for him. By the Act of 1793, the slaveholder may himself without oath, or process of any kind, seize his prey, where he can find him, and at his leisure, (for no time is specified,) drag him before any Justice of the Peace\* in the place, whom he may prefer. This Justice is a State

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\* In New York the Legislature has interfered, and forbidden a Justice of the Peace to act, and has therefore virtually declared the Act of Congress to be unconstitutional,—and that the power of prescribing the mode in which fugitives shall be restored, belongs exclusively to the States.



officer, and of the lowest judicial grade, and under no legal obligation to execute an Act of Congress, and entitled to no fees for his services. He is therefore peculiarly accessible to improper influences. Before this magistrate, who is not authorized to compel the attendance of witnesses in such a case, the slaveholder brings his victim, and if he can satisfy this judge of his own choice, "by oral testimony or *affidavit*," and for aught that appears in the law, by his own oath, that his claim is well founded, the wretched prisoner is surrendered to him as a slave for life, torn from his wife and children, bereft of all the rights of humanity, and converted into a chattel,—an article of merchandise,—a beast of burden!!

The Federal Constitution declares:—"In suits at common law, where the value in controversy shall exceed *twenty dollars*, the right of TRIAL BY JURY shall be preserved;" but the Act of 1793, in suits in which "the value in controversy" exceeds all estimation, dispenses with trial by jury, and indeed with almost every safeguard of justice and personal liberty.

This law, iniquitous as it is, does not require State officers to *anticipate* the pursuit of the slaveholder, and to seize and imprison their fellow-men, on mere suspicion that they may be claimed as slaves. What the Federal Government dares not do in the States, it accomplishes on its own exclusive territory, and in a manner which, for atrocious wickedness and tyranny, leaves far in the shade the vilest acts of European despotism. This is indeed strong language; but alas! language is too feeble adequately to represent the turpitude of the laws and practices sanctioned by the Federal Government, in the District under its "exclusive jurisdiction."

By the Act of 1793, a Justice can take no step for the restoration of a fugitive slave, till the fact of his being one is proved before him on oath. But in the Metropolis of the Nation,—in the city called by the name of the Father of his Country, a Justice of the Peace may commit to the UNITED STATES PRISON, and into the custody of the UNITED STATES MARSHAL, any man he may choose to suspect of being a fugitive slave. Notice is then given in the newspapers of the commitment, and the unknown owner is warned to take away his property, or it will be sold according to LAW, to pay JAIL FEES.

After the doors of the dungeon have closed upon the victim, no magistrate, no court, no jury take cognizance of his claims to freedom. The jailor is the only tribunal to which he can appeal, and how *disinterested* a tribunal will presently

be seen. If a freeman, no master can of course, lawfully claim him, and not being claimed, he is sold at auction to raise money to pay an officer of the Federal Government for the trouble and expense of keeping him a few weeks in prison. What civilized government of the old world practices more execrable wickedness ?\*

The whole depth of this villainy is not yet sounded. The disclosures we are now about making should make every ear to tingle and every heart to quake. No doubt it will occur to many that if a free man, all the prisoner has to do, to obtain his liberation, is to prove his freedom. Prove his freedom while locked up in his cell ! Where is his counsel ?—where his process for commanding the attendance of witnesses ?—where the court sitting in open day to investigate his right to freedom ?—where the jury to pass upon his case ? The marshal, or his deputy the jailor, is the only human being, except his fellow-victims, to whom he can tell his tale. The marshal is the judge, and the sole judge of his prisoner's title to freedom. He is the arbiter of happiness and misery, of liberty and bondage : he opens the door of the dungeon, and at his sovereign will bids his captive go forth to enjoy the rights and fulfil the duties of a rational, accountable, and immortal being, or conducts him to the human shambles erected in the city of Washington, and there sells him under the hammer as a SLAVE FOR LIFE. Compared with this tremendous jurisdiction, the powers vested in the highest judicial officer in our country dwindle into insignificance. And should *such* a judge be disinterested ? The very question is shocking to our every idea of justice. Disinterested !—Screened from the public eye—accountable only to that Being who seeth in secret—declaring his judgment in the recesses of the prison, he should of all men be most exempt from human passion and infirmity. *Yet to this judge the law offers a high and tempting bribe to sell men he knows to be free, and thus to become a manufacturer of slaves.* Will this statement be credited ? It cannot, and ought not to be,

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\* Not as an apology for this expression, but as a reason why the writer feels more sensibly than perhaps many others on this subject, he thinks proper to mention, that a free colored man belonging to his neighborhood in Westchester County, N. Y., on going to Washington some years since, was there legally kidnapped, and advertised by the marshal to be sold to pay his jail fees. A Washington paper containing the advertisement providentially fell into the hands of a citizen of the County who knew the man. A public meeting was called, and the Governor of the State, De Witt Clinton, at their request, demanded from the President his immediate release as a citizen of New York.

without full and unequivocal proof, and to that proof we now appeal; premising for the better understanding of our proof, that the marshal is required to maintain the suspected fugitives while in his custody and is entitled to fees for receiving them, &c., and if unreclaimed has no means of procuring payment of his expenses and fees but from the proceeds of the sale of his prisoners; and further, that the *whole* of those proceeds are permitted by law to remain in his pocket, unless *after* the sale the master should be discovered, and should claim the balance.

On the 11th January, 1827, the committee on the District of Columbia, to whom the subject had been referred by the House of Representatives, reported that "in this District, as in all the slaveholding States in the Union, the legal presumption is, that persons of color going at large without any evidences of their freedom, are absconding slaves, and *prima facie*, liable to all the legal provisions applicable to that class of persons." They state that in the part of the District ceded by Virginia, a FREE NEGRO may be arrested and put in jail for three months on *suspicion* of being a fugitive; he is then to be hired out to pay his *jail fees*; and if he does not prove his freedom within twelve months, is to be sold as a SLAVE. This statement is followed by the remark, "the committee do not consider any alteration of the law in the County of Alexandria in relation to this subject, necessary!" In the County of Washington, ceded by Maryland, they inform us, "If a *free* man of color should be apprehended as a runaway, he is subjected to the payment of all *fees and rewards* given by law for apprehending runaways; and upon failure to make such payment, is liable to be sold as a slave." That is, a man *acknowledged to be free*, and unaccused of any offence, is to be sold as a *slave* to pay the "fees and rewards given by law for apprehending *runaways*." If Turkish despotism is disgraced by any enactment of equal atrocity, we are ignorant of the fact. Even the committee thought this law rather hard, and therefore they "recommended such an alteration of it as would make such charges payable by the Corporation of Washington."\* But the Federal Government, unwavering in its devotion to slavery, made no alteration, and the code of Washington is to this day polluted by unquestionably the most iniquitous statute in Christendom. Laws are sometimes more profligate than those who are called to administer them, and the committee assure us that the marshal has in all cases re-

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\* See Reports of Committees, 2 Sess. 19 Cong. Vol. I. No. 43.

frained from selling his prisoners for fees and charges, when their rights to freedom have been established; and in consequence of not availing himself of the privilege allowed him by this law, he had incurred, in the last eight years, a personal loss of \$500! In other words, the marshal's sense of justice, decency, and humanity, exceeded that of the rulers of our Republic.

On the 29th of January, 1829, the committee on the District of Columbia made a report in obedience to the instructions of the House of Representatives, "to inquire into the slave-trade as it exists in and is carried on through the District." The Report proposes no interference on the part of Congress, but is virtually an apology for this vile traffic, as is apparent from the following heartless sentiments and false assertions.

"The trade alluded to, is presumed to refer more particularly to that which is carried on with the view of transporting slaves to the South, which is one way of gradually diminishing the evil complained of here; while the situation of these persons is considerably mitigated by being transplanted to a more genial and bountiful clime. Although violence may sometimes be done to their feelings in the separation of families, it is by the laws of society which operate upon them as property, and cannot be avoided as long as they exist; yet it should be some consolation to those whose feelings are interested in their behalf, to know that *their condition is more frequently bettered, and their minds happier by the exchange.*"\*

To this report is appended a letter (January 13, 1829,) from the marshal to the committee, containing most important and heart-rending statements. It appears from this letter, that from the 1st January, 1826, to 1st January, 1828, there were committed to the Washington prison as runaways, 101.

Proved to be free, and discharged,	15
Unclaimed, and sold for maintenance, and charges and fees,	5
Proved to be slaves, and delivered to their masters,	81
	<u>101</u>

In 1828—Committed as runaways, 78.

Proved to be free,	11
Unclaimed, or sold for jail fees, etc.	1
Delivered to their masters,	66
	<u>78</u>

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\* Reports of Committees, 2 Sess. 20 Cong. No. 60.



Here then is proof, official documentary proof, that in three years, 179 human beings were, by the authority of the Federal Government, arrested in *one* county of the District, and committed to prison on no allegation of crime, but merely to aid the slaveholders in trampling upon those great principles of human rights, for the protection of which the National Government was professedly founded. It is also in proof that of these 179 prisoners, 26 were, by the confession of the Marshal, *free* men; men whom (as appears from the report we have quoted,) he had a *legal* right to consign to hopeless and awful bondage, merely because they were too poor to pay the expenses of their unjust imprisonment; and who were indebted for their liberty, not to the laws and constitution of their country, but to the beneficence of their jailor—a beneficence too, exercised at his own pecuniary loss. Proof also is here given, that six persons unclaimed as slaves, were, by the judgment of this same jailor, without counsel, witnesses, or trial, sentenced to be sold as slaves for the purpose of raising money, the whole of which, as we shall presently see, was paid over to the judge who pronounced the sentence. The Marshal gives in his letter the particulars of the sale of the five unclaimed negroes, as follows, viz: *Si*—Amount of jail fees, etc. \$84 82

Offered for sale according to law, and no person being willing to give \$84 82, he was purchased by Tench Ringgold, the Marshal, for that sum, and afterwards sold by him to Robert Brown for \$20, by which the Marshal lost,

	64 82
<i>Hannah Green</i> sold for	\$61 00
Maintenance, etc.	48 71
Balance remaining in Marshal's hands,	\$12 29
<i>Lewis Davis</i> sold for	\$250 00
Amount of fees, etc.	50 07
Balance remaining in Marshal's hands,	\$199 93
<i>James Green</i> sold for	\$80 00
Fees and maintenance,	49 66
Balance remaining in Marshal's hands,	\$30 34
<i>Arthur Neal</i> sold for amount of his jail fees and maintenance, to the Marshal, being	\$46 06
Sold afterwards by private sale to J. G. Hutton for	40 00
Lost by Marshal,	\$06 06

The letter concludes thus: "The Marshal has always considered it to be his duty whenever a negro was committed as a runaway by a Justice of the Peace, who in all cases under the law commits them, which negro had not in his possession proof of his freedom, but alleged himself to be a freeman, to write to any part of the United States to persons who the negro affirmed could prove his freedom, urging them to send on their certificates of such negro being free; and in many instances, these letters of the Marshal or his jailor have been the means of bringing proof that the negro was free.

"The law of Maryland in force in this District, directs that the balance of sales of negroes (sold as runaways) *shall remain in the Marshal's hands* until the runaway was identified as the property of some master; and in conformity thereto, the Marshal has uniformly handed over such balance whenever the master proved his property. In a late case, Mr. Sprigg of Louisiana, lost a valuable slave, who escaped from him, and made his way to this District, and was committed to my custody, advertised and sold, according to law; leaving a balance of *five hundred dollars*, after paying maintenance, etc., in my hands. The negro was carried to Louisiana by the person who purchased him of me, discovered by his former master, Mr. Sprigg, who sent on here and claimed his money. Having ascertained that this negro was the property of Mr. Sprigg, I paid the \$500 on demand to his agent here, Mr. Josiah Johnson, Senator of Congress from that State. TENCH RINGGOLD, Marshal, Dist. Col."

Such are the secrets of the prison-house, established by the Federal Government. It may be well to contemplate them in detail. It appears from the cases of SI and NEAL, that the Marshal of the United States after deciding on the liberty or bondage of his prisoners, is allowed to take his *fees* in human flesh, and the condemned becomes the *property* of the very Judge who sentenced him to servitude, and who carries him into the market there to make out of him as much money as he can. True it is, Mr. Ringgold's speculations appear not to have been very productive, but other jailor judges may have less honesty, or more skill in negro flesh. The Marshal it seems sold his fees in the shape of SI, for only \$20. No reason is assigned for this nominal price. Very probably it was a case similar to the one described by Mr. Miner, in his speech on the floor of the House of Representatives, in 1829. "In August, 1821," said Mr. M., "a black man was taken up, and imprisoned as a runa-

way. He was kept confined until October, 1822, four hundred and five days. In this time, vermin, disease, and misery had deprived him of the use of his limbs. He was rendered a cripple for life, and finally discharged, *as no one would buy him.*"

The Hannah and James Green sold for fees, were most likely man and wife, and may remind us that the law we are considering is utterly reckless of the most sacred relations. The proceeds of three of the five sold in 1826-7, after deducting fees, &c. is \$242,56, and this sum, according to law, the Marshal retains till called for; but if the negroes were free, then, there being no claimant, the money can never be called for, and becomes the perquisite of office, and the income of the Judge of course fluctuates according to the number of freemen he condemns to slavery. Thus does the law literally press upon the Marshal the wages of unrighteousness—thus does it bribe him to the commission of wickedness. In one instance, the receipts of a single condemnation were \$500, of which the Marshal was deprived only by a most extraordinary accident.

And now let us review the conduct of the Federal Government towards the free colored citizen of any State, who presumes to visit the city of Washington. At the will of a Justice of the Peace he is thrown into prison. His jailor, if he possesses the humanity and disinterestedness of Mr. Ringgold, may, if he pleases, write letters to distant parts of the confederacy, although he knows that a favorable answer may keep some hundred dollars from finding their way into his pocket. If no such answer arrives, without any evidence that the letter of inquiry was ever received, the poor wretch is condemned as a slave, and the price of his bones and muscles is paid to the Judge who condemned him.

And by whom is this accursed law kept in force? By *Northern* Representatives and Senators in Congress. On the 8th February, 1836, the House of Representatives resolved, that "Congress ought not to interfere in *any way* with slavery in the District of Columbia," and no less than 82 Northern men had the hardihood to record their names in favor of the resolution. To place if possible, in a still stronger light, the conduct of these men, it may be mentioned that the law we have been considering, belonged to the code of Maryland, at the time the District was ceded, and was continued in force by Act of Congress. In the meantime, the Legislature of Maryland, composed of slaveholders, yielding to the spirit of the age, has erased this foul stain from her stat-

ute-book, while our Northern Democrats with liberty and equality forever on their lips, in the hope of getting a few Southern votes for their party, discover that Congress ought not to interfere in any way with slavery in the District, although it is by the authority of Congress that freemen are converted into slaves.

We will now place side by side, two advertisements, one published by authority of Congress, in which Northern men have the majority; the other by authority of the slave State of Maryland,—the first relating to a *woman* and *infant* claiming to be FREE, the other to a man confessing himself a SLAVE.

“NOTICE.—Was committed to the jail of Washington county, District of Columbia, as a runaway, a negro WOMAN, by the name of Polly Leiper, and her *infant* child William; she is five feet four inches high, about twenty-three years of age. She had on when committed \* \* \* \* Says she was set free by John Campbell, of Richmond, Va., in 1818 or 1819. The owner of the above-described *woman* and *child*, if any, are requested to come and prove them, and take them away, or *they* will be SOLD FOR THEIR JAIL FEES AND OTHER EXPENSES AS THE LAW DIRECTS.

May 19, 1827. TENCH RINGGOLD, *Marshal*.”

“*RANAWAY*.—Was committed to the jail of Washington county, Maryland, on the 24th December last, a mulatto man who calls himself *John McDaniel*, about 25 years of age. \* \* Says he belongs to William Hill, living at Falmouth, Va., and was sold to John Daily, living somewhere in the South. The owner of the said slave is requested to come and take him away, or *he will be released according to law*.

CHRISTIAN NEWCOMB, *Jun., Sheriff*.”

December 10, 1827.\*

The endeavors of the Federal Government to secure the restoration of fugitive slaves to their masters, is not confined either to the District of Columbia, or to the States of this confederacy. Even American diplomacy must be made subservient to the interests of the slaveholders, and republican ambassadors must bear to foreign courts the wailings of our government for the escape of human property.

On the 10th of May, 1828, the House of Representatives requested the President “to open a negotiation with the British Government in the view to obtain an arrangement whereby fugitive slaves who have taken refuge in the Cana-

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\* Both advertisements are taken from the Washington Intelligencer.



dian provinces of that government, may be surrendered by the functionaries thereof to their masters, upon making satisfactory proof of their ownership of said slaves."

Here was a plain, palpable interference in behalf of slavery by a government which we are often assured by the slaveholders "has nothing to do with slavery;" and so tame and subservient were the northern members, that this disgraceful resolution was adopted without even a division of the House! At the next session, the impatience of the slaveholders to know if Great Britain would restore their slaves who had taken refuge in Canada, could brook no longer delay, and the House called on the President to inform them of the result of the negotiation. The President immediately submitted a mass of documents to the House, from which it appeared that the zeal of the Executive, in behalf of "the peculiar institution," had *anticipated* the wishes of the Legislature. Two years *before* the interference of the House, viz: on the 19th of June, 1826, Mr. Clay, Secretary of State, had instructed Mr. Gallatin, American Minister, in London, to propose a stipulation for "a mutual surrender of all persons held to service or labor under the laws of either party who escape into the territories of the other." Mr. Clay dwelt on the number of fugitives in Canada, and desired Mr. Gallatin to press on the British Government the consideration that such a stipulation, would secure *to the West India planters the recovery of such of their slaves as might take refuge in the American Republic!*

Surely the Federal Government was never intended by its founders to act the part of kidnapper for West India slaveholders.

On the 24th of February, 1827, Mr. Clay again urged Mr. Gallatin to procure this stipulation, and informed him that a treaty had just been concluded with Mexico, *by which that power had engaged to restore our runaway slaves.\**

On the 5th July, 1827, Mr. Gallatin communicated to his government the answer of the British Minister, that "it was utterly impossible for them to agree to a stipulation for the surrender of fugitive slaves."

Determined not to take no for an answer, Mr. Clay desired Mr. Barbour, our then Minister in England, to renew the negotiation, inasmuch as the escape of slaves into Canada is "a growing evil;" but alas! Mr. Barbour replied that on broaching the subject to the British Minister, he had in-

\* Such a treaty was negotiated, but the Mexican Congress refused to ratify the base compact.

formed him "*the law of Parliament gave freedom to every slave who effected his landing on British ground.*"\* To have attempted to march an army into Canada, for the purpose of seizing these fugitives, would have cost rather more than they were worth. There was, however, a territory on our southern frontier, belonging to a power less able than Great Britain to punish aggressions on her sovereignty, and hence it is that we are called to consider

THE INVASION OF FLORIDA, AND DESTRUCTION OF FUGITIVE SLAVES BY THE FORCES OF THE FEDERAL GOVERNMENT.

On the 15th of March, 1816, Mr. Crawford, Secretary of War, addressed a letter to General Jackson, informing him that there was a fort in Florida, occupied by between 250 and 300 blacks, and that they and the hostile Creek Indians were guilty of secret practices to inveigle negroes from the frontiers of Georgia, and directing him to call the attention of the Commandant at Pensacola to the subject. The Secretary added, that should the Commandant decline interfering, and should it be determined that the destruction of the negro fort does not require the sanction of Congress, means will be promptly taken for its reduction.

Gen. Jackson, however, had, *before* the receipt of this despatch, "assumed the responsibility" of sending his orders respecting this very fort to Gen. Gaines. "If the fort harbors the negroes of our citizens, or of friendly Indians living within our territory, or holds out inducements to the slaves of our citizens to desert from their owner's service, *it must be destroyed.*—Notify the Governor of Pensacola of your *advance into his territory, and for the express purpose of destroying these lawless banditti.*" The letter concludes with directions to "restore the stolen negroes to their rightful owners." (Letter of 8th April, 1816.)

Owing to some cause not explained, Gen. Gaines did not fulfil his instructions; and a gun-boat was sent up the Apalachicola river by order of Commodore Patterson, and on the 27th July attacked the fort by firing red-hot shot at it. A shot entered the magazine which exploded. The result is thus stated in the official report: "Three hundred negroes, *men, women, and children*, and about 20 Indians, were in the fort; of these, 270 were killed, and the greater part of the rest *mortally wounded.*"

Commodore Patterson, in his letter to the Secretary of the Navy observes: "The service rendered by the destruc-

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\* State papers. 2 Sess. 20th Cong. Vol. 1.

tion of this fort, and the band of negroes who held it and the country in its vicinity, is of great and manifest importance to the United States, and particularly those States bordering on the Creek nation, as it had become a general rendezvous for *runaway slaves* and disaffected Indians—an asylum where they found arms and ammunition to protect themselves against their owners and the government. This hold being destroyed, they have no longer a place to fly to, and will not be so liable to *abscond*. The force of the negroes was daily increasing, and they had commenced several plantations on the banks of the Appalachicola.”\*

Various plantations have also been commenced in Canada by fugitive slaves, but being under the protection of Great Britain, and not of Spain, the Federal Government has wisely abstained from any *forcible* attempt to destroy them.

It is now time to advert to one of the most extraordinary exploits of American diplomacy, viz :

#### COMPENSATION FOR FUGITIVE SLAVES, OBTAINED BY THE FEDERAL GOVERNMENT.

The presence of British armed vessels in our southern waters, during the last war, afforded an opportunity to many of the slaves to escape from bondage. In 1814, and while the war was raging in all its fury, commissioners were appointed to treat of peace, and instructions were given to them as to the stipulations to be inserted in the treaty. These instructions contain the following remarkable passage: “The negroes taken from the southern States should be returned to their owners, or *paid* for at their full value. If these slaves were considered as non-combatants, they ought to be restored: if as property, they ought to be paid for.” Moreover, this stipulation is expressly included “in the conditions on which you are to *insist* in the proposed negotiations.”—*Letter of instructions from Mr. Monroe, Secretary of State, 28th January, 1814.*†

Thus we see that not even the calamities of war, could divert the attention of the Federal Government from the peculiar interests of the slaveholders. The commissioners were faithful to the charge thus given to them; and in the treaty concluded at Ghent, adroitly provided for the restoration of *slaves*; and in such obscure terms as ultimately secured a far more extensive concession than the British negotiators had any intention of making.

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\* State papers. 2 Sess. 15th Cong. No. 65. † American State papers. Vol. IX. p. 364.

The 1st Article is as follows: "All territory, places, and possessions whatever, taken from either party, by the other during the war, or which may be taken after the signing of this treaty, shall be restored without delay; and without causing any destruction or carrying away of the artillery or other public property *originally captured* in said forts or places, and which shall *remain* upon the exchange of the ratifications of this treaty, or any *slaves* or other private property."

The treaty was ratified at Washington on the 17th February; and *six* days after, three commissioners appointed by the Government appeared in the Chesapeake, authorized to demand and receive the slaves on board the British squadron still in our waters.

Captain John Clarelle happened to be at the moment in command of the British forces, and he positively refused to give up a single fugitive; contending that the stipulation in the treaty related only to slaves "*originally captured* in forts or places," and remaining in such forts or places at the exchange of the ratifications, and had no reference to the slaves who had voluntarily sought protection on board British vessels.

A few days after, Admiral Cockburn arrived, and a similar demand was made upon him. He also refused to surrender any *fugitives*, as such were not intended in the treaty, but gave up 80 slaves which were found on Cumberland Island at the time that place was *captured*, and who had not been removed previous to the exchange of ratifications; this being a case directly within the true meaning and intention of the treaty. The Secretary of State then applied to the British Charge d'Affaires at Washington, requesting him to direct the Naval Commanders in the Chesapeake to give up the fugitives on board their vessels; but Mr. Baker declined interfering, taking the same view of the article as the Admiral had done. In the meantime the squadron had sailed for Bermuda. The Government, tracking the scent of a fugitive with blood-hound keenness, forthwith despatched an agent to Bermuda in pursuit, to demand the negroes of the Governor. The worthy Englishman, nettled at a requisition so derogatory to the honor of his country, replied, "he would rather Bermuda, with every man, woman, and child in it, were sunk under the sea, than surrender one slave that had sought protection under the flag of England."

The Agent, (Thomas Spalding) nothing daunted, now assumed the diplomatist, and addressed a long argumentative despatch to Admiral Griffith, commanding on the Bermuda Station, demanding the fugitives and promising to furnish



him with a particular list of the slaves claimed, which he expected to receive in a few days from the United States. The Admiral very cavalierly assured Mr. Spalding, that it was quite unnecessary for him to wait at Bermuda for the expected document, since there was, neither at Bermuda, nor any other British island or settlement, any authority "competent to deliver up persons who during the late wars, had placed themselves under the protection of the British flag."\*

From British Governors and Admirals, our Government now turned to the British Cabinet, and found that there also it was held a point of honor to keep faith, even with runaway slaves. Lord Castlereagh declared that the Government never would have assented to a treaty requiring the surrender of persons who had taken refuge under the British Standard. Again was the demand made, and again was it unequivocally rejected. But the administration refused to yield, and insisted on a reference of the question to the decision of a friendly power, and named the Emperor of Russia as umpire. After tedious negotiation, this point was carried; and in 1818, a convention was concluded at London, submitting the true construction of the treaty to the Emperor, who decided in favor of the slaveholders. It now became necessary to determine how the number of slaves, and their value, should be ascertained. Another negotiation ensued, which resulted in a second convention, by which it was agreed that each party should appoint a certain number of Commissioners, who should form a Board to sit at Washington, to receive and liquidate the claims of the masters. But difficulties soon arose. The American Commissioners insisted on *interest*, which the others refused to allow. Negotiations again commenced, till at last the British Cabinet, wearied with the pertinacity of the American Government, and sick of the controversy, entered into a third convention, (13th Nov. 1836,) by which the enormous sum of ONE MILLION TWO HUNDRED AND FOUR THOUSAND DOLLARS was paid and received in full of all demands.

Thus after a persevering negotiation, conducted for twelve years, at Washington, in the Chesapeake Bay, at Bermuda, at London, and at Petersburg, did our Government succeed in obtaining most ample compensation for the fugitives. Commissioners were then appointed to distribute this sum; and after fixing an average value on each slave proved to have been carried away, it was found that a *surplus still remained*; and this surplus was divided among the masters!

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\* State papers—14th Cong. 2d Sess.—Senate documents, No. 32.

Having now seen the success that attended the pursuit of fugitive slaves, let us next witness the

#### EFFORTS OF THE FEDERAL GOVERNMENT TO RECOVER SHIP-WRECKED SLAVES.

Considering the extent of the American slave trade, it is not surprising that our SLAVERS are occasionally driven out of their course; and are sometimes wrecked upon the dangerous reefs abounding in the neighboring Archipelago.

On the 3d Jan. 1831, the brig Comet, a regular slaver from the District of Columbia, on her usual voyage from Alexandria to New-Orleans, with a cargo of 164 slaves, was lost off the Island of Abaco. The slaves were saved, and carried into New-Providence, where they were set at liberty by the authorities of the Island. A portion of the cargo, (146 head) was insured at New-Orleans for \$71,330.

On the 4th Feb. 1833, the brig Encomium, from Charleston to New-Orleans with 45 slaves, was also wrecked near Abaco, and the slaves carried into New-Providence, where, like their predecessors, they were declared to be free.

In Feb. 1835, the Enterprise, another regular slaver from the National Domain, on her voyage to Charleston, with 78 slaves, was driven into Bermuda in distress. The passengers, instead of being thrown into prison as Bermudians would have been in Charleston under similar circumstances, were hospitably treated, and permitted to go at large. These successive and unexpected transmutations of slaves into free-men, roused the ready zeal of the Federal Government.—Directly on the loss of the Comet, instructions were sent from Washington to our Minister, to demand of the British Government the value of the cargo. In 1832, another despatch was forwarded on the subject. The instructions were again renewed in 1833; the Secretary of State remarking, this case “*must* be brought to a conclusion—the doctrine that would justify the liberation of our slaves, is too dangerous to a large section of our country to be tolerated.”

In 1834, fresh instructions were sent, and a demand ordered to be made for the value of the slaves in the Encomium.

In 1835, similar instructions were sent relative to the Enterprise.

In 1836, the instructions were renewed; the Secretary observing to Mr. Stevenson, “In the present state of our diplomatic relations with the Government of His Britanic Majesty, *the most immediately pressing* of the matters with which the United States’ Legation at London is now charged,

is the claim of certain American citizens against Great Britain for a number of slaves, the *CARGOES* of three vessels wrecked in British Islands in the Atlantic."

Thus for six successive years did the Cabinet at Washington keep sending despatches to their agents in England, urging them to obtain payment from Great Britain for these *cargoes* of human flesh. Nor were those agents remiss or reluctant in fulfilling their instructions. Numerous were the letters addressed to the British Secretary, claiming either the restoration of the slaves, or their equivalent in money.

From a long and labored communication from Mr. Stevenson to Lord Palmerston, we extract the following *morceau*.

"The undersigned feels assured that it will only be necessary to refer Lord Palmerston to the provisions of the Constitution of the United States, and the laws of many of the States, to satisfy him of the *existence* of slavery, and that slaves are there regarded and protected as property: that by these laws, there is in fact *no distinction in principle between property in persons and property in things*; and that the Government have more than once, in the most solemn manner, determined that slaves killed in the service of the United States, even in a state of war, were to be regarded as property, and not as persons; and the Government held responsible for their value."

No answer having been vouchsafed to this letter, and the argument being exhausted, Mr. Stevenson tried the virtue of a diplomatic hint that the United States would go to war for their slaves; expressing his hope in a letter to Lord Palmerston, that the British Government would "not longer consent to postpone the decision of a subject which had been for so many years under its consideration; and the effect of which can be none other than to throw not only additional impediments in the way of an adjustment, and increase those feelings of dissatisfaction and irritation which have already been excited; but by possibility tend to *disturb and weaken the kind and amicable relations which now so happily subsist between the two countries, and on the preservation of which, so essentially depend the interests and happiness of both.*"

—(Letter of 31st December, 1836.)

How this hint was received we are not informed; but it is certainly not creditable to the British Government, that instead of a prompt and frank refusal to deliver into cruel and perpetual bondage, innocent men who had providentially been thrown under its protection, or to estimate their value in pounds, shillings, and pence, it had, at our last accounts, avoided giving a decided answer to the demands of the Wash-

ington Cabinet, under pretence of taking the opinion of the law officers of the crown.

The negotiation was made public in consequence of a call by the Senate on the President (7th Feb. 1837) for a copy of the "Correspondence with the Government of Great Britain in relation to the *outrage* committed on our flag, and the rights of our citizens, by the authorities of Bermuda and New-Providence, in *seizing* the slaves on board the brig 'Encomium' and 'Enterprise,' engaged in the *coasting trade*, but which were forced by shipwreck and stress of weather into the ports of those Islands."

The language of this resolution, indicates the influence exerted by slavery over the Federal Government. Should a murderer escape from England and land on our shores, we refuse to surrender him to the justice of his country;\* but when the West Indian authorities refuse to deliver two hundred and eighty-seven innocent men, women, and children, thrown by the tempest under their protection, into hopeless, interminable slavery, the Senate solemnly pronounce the refusal to be an *outrage* on our flag, and the rights of our citizens. Moreover, the liberation of these persons is spoken of as a *seizure* of them, and the *slavers* carrying human cargoes to market, are most audaciously declared to have been engaged in the *coasting trade*! The real trade in which these vessels were engaged, was

#### THE AMERICAN SLAVE TRADE UNDER THE PROTECTION AND REGULATION OF THE FEDERAL GOVERNMENT.

We shall first exhibit the character and extent of this trade, and then show that it is in fact carried on under the protection and regulation of the Federal Government.

The competition of free with slave labor in the bread stuffs and some other productions of Maryland, Virginia, and North Carolina, have greatly reduced the value of slaves as laborers in those States; and hence the disposition manifested there some years since, to get rid of this unprofitable portion of their population. But the rapid extension of the cotton and sugar cultivation in the extreme South, together with the settlement of the new States of Alabama, Missis-

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#### NOTE BY J. C. JACKSON.

\* By a provision in the Ashburton Treaty, made with England during the time Daniel Webster was Secretary of State, this Government and that of England have mutually stipulated to deliver up persons charged with offences and escaping into the jurisdiction of either, provided such acts are considered by both as criminal offences.



issippi, Missouri, and Arkansas, occasioned a prodigious demand for slaves; and the agriculturists of Virginia and the neighboring States discovered that their most lucrative occupation was that of raising live stock for the southern and western markets. In Georgia and South Carolina, it has also been found more advantageous to export their supernumeraries to Mobile, New-Orleans, or Natchez, than to employ them on their already well-stocked plantations. Hence has grown up an almost incredible transfer of slaves from the North to the South; and recently a new market has been opened in Texas, giving an additional stimulus to the trade. It is impossible to ascertain the exact amount of this trade, as the Secretary of the Treasury in his annual report on the commercial statistics of the United States, has never included any statements respecting this branch of the "coasting trade." But indeed, the returns from the several Custom Houses of the size and value of the human cargoes cleared for the southern ports, if given, would afford a very inadequate idea of the extent of the traffic, since it is carried on by land as well as by sea. Whole coffles of chained slaves are driven long and painful journeys in the interior of the Republic, much in the same manner as in the wilds of Africa. The Rev. Mr. Dickey, in a published letter thus describes a coffle he met on the road in Kentucky:—"I discovered about forty black men all chained together in the following manner: each of them was handcuffed, and they were arranged in rank and file; a chain perhaps forty feet long was stretched between two ranks, to which short chains were joined, which connected with the handcuffs. Behind them were, I suppose, *thirty women*, in double rank, *the couples tied hand to hand.*"

J. K. PAULDING, the present Secretary of the Navy, gives the following picture of a scene he witnessed in Virginia:

"The sun was shining out very hot, and in turning an angle of the road we encountered the following group: first, a little cart drawn by one horse, in which five or six half naked black children were tumbled like pigs together. The cart had no covering, and they seemed to have been actually broiled to sleep. Behind the cart marched three black women, with head, neck and breasts, uncovered, and without shoes or stockings; next came three men, bareheaded, half naked, and *chained together with an ox chain!* Last of all came a white man—a white man, Frank!—on horseback, carrying pistols in his belt, and who, as we passed him, had the impudence to look us in the face without blushing. I

should like to have seen him hunted by blood-hounds. At a house where we stopped a little further on, we learned that he had bought these miserable beings in Maryland, and was marching them in this manner to some of the more southern States. Shame on the State of Maryland! I say—and shame on the State of Virginia! and every State through which this wretched cavalcade was permitted to pass. Do they expect that such exhibitions will not dishonor them in the eyes of strangers, however they may be reconciled to them by education and habit?"\*

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\* "Letters from the South, written during an excursion in the Summer of 1816." New-York, 1817. Vol. I. Letter XI. p. 117.

It may be thought by some that the elevation to a seat in the Cabinet, of a gentleman who expresses himself with so much warmth and fearlessness against one of the "peculiar institutions of the South," militates against our idea that the influence of the Federal Government is exerted in behalf of slavery. Singular as it may appear, the appointment of Mr. Paulding is nevertheless strongly corroborative of the opinion we have advanced; and the explanation is at once easy and amusing. The "Letters from the South" were reprinted in 1835, and form the fifth and sixth volumes of an edition of "Paulding's Works." The letter from which we have quoted consists of fourteen pages, devoted to the subject of slavery. On turning to the corresponding letter in the *recent* edition we find it shrunk to *three* pages, containing no allusion to the internal trade, nor any thing else that could offend the most sensitive Southerner. In the nineteenth letter as printed in 1817, there is not a word about slavery. In the same letter as published in 1835, we meet with the following most wonderful *prediction*; a prediction that has lately been cited in the newspapers as a proof of the sagacity and foresight of the Secretary of the Navy:—

"The second cause of disunion will be found in the slave population of the South, *whenever* the misguided, or willfully malignant zeal of the advocates of emancipation, shall institute *as it one day doubtless will*, a crusade against the constitutional rights of the slave owners, by sending among them fanatical agents and fanatical tracts, calculated to render the slaves disaffected, and the situation of the master and his family dangerous; when appeals shall be made under the sanction of religion to the passions of these ignorant and excited blacks, calculated and intended to rouse their worst and most dangerous passions, and to place the very lives of their masters, their wives, and their children, in the deepest peril; *when societies are formed* in the sister States for the avowed purpose of virtually destroying the value of this principal item in the property of a southern planter; when it becomes a question mooted in the Legislatures of the States, or of the General Government, whether the rights of the master over his slave shall be any longer recognized or maintained, and when it is at last evident that nothing will preserve them but secession, then will certain of the Stars of our beautiful constellation start madly from their spheres and jostle the others in their wild career."

In the title of the new edition, the *date* of the "excursion" is modestly omitted, but the reader is not informed that the spirit of prophecy descended upon the writer, not while journeying at the South, but while witnessing in New-York the operations of the *predicted* societies, and *after* the city had been convulsed by the abolition riots.

In 1836, Mr. Paulding published his "Slavery in the United States." In this work both the Old and New Testament are made to give their sanction to slavery. Great Britain, in abolishing slavery in the West Indies, is charged with having "committed robbery under cover of humanity."—(p. 41.) "A community of free blacks rising among the ruins of States, lords of the soil, smoking with the habitations and blood of their exterminated masters and families," would we are assured be only fulfilling "the wishes" of the abolitionists.—(p. 56.) The advocates of immediate emancipation recommend it as asserted, "indiscriminate marriages between the whites and blacks:" (p. 61.) and well educated respectable females amongst them are apparently anxious "to become the mothers of mulattoes."—(p. 62.) Slavery we are told "is becoming gradually divested of all its harsh features, and is now only the bugbear of the imagination?"—(p. 26.) and Mr. Paulding affirms—"In a residence of several years within the District, and a pretty extensive course of travel in some of the southern States, (the excursion in the summer of 1816, we suppose,) we never saw or heard of any such instances of cruelty.—We *saw* no chains, (!) and heard no stripes."—(p. 168.)

We trust our readers are now fully convinced of this gentleman's qualifications for the office of Secretary of the Navy, and of Mr. Van Buren's consistency in appointing him.

As we are about to enter into particulars respecting the American slave trade, it may not be uninteresting to inquire who are its victims? They are *native born Americans*. But of what color and descent? This will no doubt be deemed by many a very unnecessary question; and no little indignation will probably be excited when we answer that large numbers of these victims are *white men and women, and the children of American citizens*.

People at the north are disposed to be incredulous, when they hear of *white slaves* at the South; and yet a little reflection would convince them not only that there must be such slaves under the present system, but that in process of time, a large proportion of the slaves will be as white as their masters. Were there no other sources of information respecting the complexions of the southern slaves, the newspaper notices of runaways would most abundantly confirm our assertion. Of these notices, we give the following as samples.

“\$100 Reward.—The above reward will be paid for the apprehension of my man William. He is a very bright mulatto—*straight yellowish hair*. I have no doubt he will change his name, and try to pass himself for a WHITE MAN, which he may be able to do, unless to a close observer.

August 9.

T. S. PICHARD.”

“\$100 Reward.—Ranaway from James Hyhart, Paris, Kentucky, on the 29th June last, the mulatto boy Norton, about 15 years, a very bright mulatto, and would be taken for a WHITE BOY, if not closely examined. His hair is black and *straight*, &c.—*New Orleans True American*, 11th August, 1836.”

“\$100 Reward—Will be given for the apprehension of my negro (!) Edmund Kenney. He has *straight hair*, and complexion so nearly WHITE, that it is believed a stranger would suppose *there was no African blood in him*. He was with my boy Dick a short time since in Norfolk, and offered him for sale, and was apprehended, but escaped under pretence of being a WHITE MAN. ANDERSON BOWLES.

*Richmond Whig* 6th January, 1836.”

“\$50 Reward—Will be given for the apprehension and delivery to me of the following slaves: Samuel, and Judy his wife, with their four children, belonging to the estate of Sacker Dubberly, deceased.

I will give \$10 for the apprehension of William Dubberly, a slave belonging to the estate. William is about 19 years

old, QUITE WHITE, and would not readily be mistaken for a slave.

JOHN T. LANE.

*Newbern Spectator, 13th March, 1837."*

"\$100 Reward.—Ranaway from the subscriber, a bright, mulatto man slave, named Sam. *Light sandy hair, blue eyes, ruddy complexion*—is so WHITE as very easily to pass for a free WHITE MAN.

EDWIN PECK.

*Mobile, April 22, 1837."*

"\$50 Reward.—I will give the above reward of fifty dollars for the apprehension and securing in any jail, so that I get him again, or delivering to me in Dandridge, E. Tenn. my mulatto boy named Preston, about twenty years old. It is supposed he will try to pass as a *free* WHITE MAN.

Oct. 12, 1838.

JOHN ROPER."

"*Ranaway* from the subscriber, working on the plantation of Col. H. Tinker, a bright mulatto boy named Alfred. Alfred is about 18 years of age, pretty well grown, has *blue eyes, light flaxen hair, skin disposed to freckle*. He will try to pass as FREE BORN.

S. G. STEWART.

*Green County, Alabama."*

Mr. Paxton, a Virginia writer, tells us in his work on slavery, that "the best blood in Virginia flows in the veins of the slaves."

Dr. Torrey, in his work on domestic slavery in the United States, p. 14, says: "While at a public house in Fredericktown, there came into the bar-room on Sunday, a decently dressed white man, of quite a light complexion, in company with one who was totally black. After they went away, the landlord observed that the *white man* was a slave. I asked him with some surprise how that could be possible? To which he replied, that he was a descendant, by female ancestry, of an African slave. He also stated that not far from Fredericktown, there was a slave estate on which there were several *white* females, as of fair and elegant appearance as white ladies in general, held in legal bondage as *slaves* ! !

A Missouri paper, reporting the trial of a *slave boy*, remarks: "All the physiological marks of distinction which characterize the African descent, had disappeared. His skin was *fair*, his hair soft, straight, fine and white, his eyes blue, but rather disposed to the hazel-nut color, nose prominent, the lips small and well formed, forehead high and prominent."

In the summer of 1835, a slaveholder from Maryland arrested as his fugitive, a young woman in Philadelphia. A trial ensued, when it was most conclusively proved that the



alleged slave, Mary Gilmore, was the child of poor *Irish* parents, and had not a drop of African blood in her veins.

A paper printed at Louisville, Ky., the "*Emporium*," relates a circumstance that occurred in that city, in the following terms. "A laudable indignation was universally manifested among our citizens on Saturday last, by the exposure of a woman and two children for sale at public auction, at the front of our principal tavern. The woman and children were as WHITE as any of our citizens; indeed, we scarcely ever saw a child with a fairer or clearer complexion than the younger one."—*Niles's Register*, June, 1821.

Mr. Niles tells us in his register, that Mr. Calhoun, the late Vice President, had related to him the case of a man "placed on the stand for sale as a slave, whose appearance in *all respects* gave him a better claim to the character of a WHITE MAN than most persons so acknowledged could show."—*Register*, 25th Oct. 1834.

We will now attempt to give the reader some idea of the *extent* of the trade—a trade in which human beings of every shade, from the purest white to the deepest black, are made articles of merchandise, and treated with cruelty little if any less than that which has made the African slave trade the execration of the civilized world.

"Dealing in slaves," says the Baltimore Register, "has become a large business; establishments are made in several places in Maryland and Virginia, at which they are sold like cattle; these places of deposit are strongly built, and well supplied with iron thumb-screws and gags, and ornamented with cowskins and other whips, oftentimes bloody."

The advertisements of the Baltimore traders show that the Maryland Colonization Society, in their endeavors to suppress the slave trade, may find a field for their labors less distant than the coast of Africa. We annex some samples.

"*Austin Woodfolk* of Baltimore, wishes to inform the slaveholders of Maryland and Virginia, that their friend still lives to give cash and the highest price for negroes," &c.

"*General Slave Agency Office*.—Gentlemen planters from the South and others who wish to purchase negroes, would do well to give me a call. LEWIS SCOTT."

"*Cash for two hundred Negroes*.—The highest cash prices will be paid for negroes of both sexes, by application to me or my agent at Booth's Garden. HOPE H. SLATER."

"*For New-Orleans*.—A coppered, copper-fastened packet-brig Isaac Franklin, will sail on the 1st Feb. for Baltimore.

*Those having servants to ship will do well by making early application to James F. Purvis," &c.*

Human flesh is now the great staple of Virginia. "In the Legislature of this State in 1832, THOMAS JEFFERSON RANDOLPH declared that Virginia had been converted into "*one grand menagerie, where men are reared for the market like oxen for the shambles.*" This same gentleman thus compared the foreign with the domestic traffic. "The trader (African) receives the slaves, a stranger in aspect, language, and manner, from the merchant who brought him from the interior. But *here, sir, individuals whom the master has known from infancy—whom he has seen sporting in the innocent gambols of childhood—who have been accustomed to look to him for protection, he tears from the mother's arms, and sells into a strange country, among a strange people, subject to cruel taskmasters. In my opinion it is much worse.*"

Mr. C. F. MERCER asserted in the Virginia Convention of 1829, "The tables of the natural growth of the slave population demonstrate, when compared with the increase of its numbers in the Commonwealth for twenty years past, that an annual revenue of not less than a *million and a half of dollars* is derived from the *exportation* of a part of this population."—*Debates* p. 99.

Professor E. A. Andrews gives a conversation he had with a trader on board a steam-boat on the Potomac, in 1835. "In selling his slaves, N ——— assures me he never separates families; but that in *purchasing* them he is often compelled to do so, for that his business is to purchase, and he must take such as are in the market. Do you often buy the wife without the husband? Yes, very often; and frequently, too, they sell me the mother, while they keep the children. I have often known them take *away the infant from the mother's breast, and keep it, while they sold her.* Children from one to eighteen months old, are now worth about one hundred dollars."\*

The town of Petersburg in Virginia, seems to enjoy a large share of this commerce, judging from the advertisements of its merchants.

"*Cash for Negroes.*—The subscribers are particularly anxious to make a *shipment* of negroes shortly. All persons who have slaves to part with, will do well to call as soon as possible.  
OVERLY & SAUNDERS."

"The subscriber being desirous of making *another ship-*

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\* Slavery and the domestic slave trade in the United States, p. 417.

ment by the brig *Adelaide* to New-Orleans, on the first of March, will give a good market price for fifty negroes from *ten* to thirty years old.

HENRY DAVIS."

"The subscriber wishes to purchase *one hundred slaves*, of both sexes, from the age of *ten* to thirty, for which he is disposed to give much higher prices than have heretofore been given. He will call on those living in the adjacent counties to see any *property*."

ANSLEY DAVIS."

But of all the Virginia merchants, Mr. Collier, of Richmond, seems to be the most enterprising. We give extracts from his

"*Notice*.—This is to inform my former acquaintances, and the public generally, that I yet continue in the SLAVE TRADE, at *Richmond, Virginia*, and will at all times buy and give a fair market price for *young negroes*. Persons in this State, Maryland, or North Carolina, wishing to sell lots of negroes, are particularly requested to forward their wishes to me at this place. Persons wishing to purchase lots of negroes, are requested to give me a call, as I keep constantly on hand at this place, *a great many* for sale; and have at this time the use of one hundred young negroes, consisting of boys, young men, and girls. I will sell at all times at a small advance on cost, to suit purchasers. I have comfortable rooms with a *jail* attached, for the reception of the negroes; and persons coming to this place to sell slaves, can be accommodated, and every attention necessary will be given to have them well attended to; and when it may be desired, the reception of the company of *gentlemen dealing in slaves*, will conveniently and attentively be received. My situation is very healthy and suitable for the business.

LEWIS A. COLLIER."

Joseph Wood of Hamburg, South Carolina, a "gentleman dealing in slaves," advertises that he "has on hand a likely parcel of *Virginia* negroes and receives new supplies *every fifteen days*."

And what are the pecuniary results of this commerce? Mr. Mercer, as we have seen, estimated the annual revenue to Virginia from the export of human flesh, at *one million and a half of dollars*. But this was in 1829, before the trade had reached its present palmy state. "The Virginia Times," in 1836, in an article on the importance of increasing the banking capital of the Commonwealth, estimates the number of slaves exported for sale the "last twelve months," at FORTY THOUSAND; each slave averaging six hundred dollars, and thus yielding a capital of TWENTY-FOUR MILLIONS, of

which the Editor thinks, at least thirteen millions might be contributed for banking purposes.\*

Let us now visit the "Metropolis of the Nation," the very heart of this mighty commerce in the bodies and souls of men. The District of Columbia, from its relative situation to the breeding States, forms a convenient depot for the negroes, previous to their exportation; and the non-interference of Congress, gives the traders "under the exclusive jurisdiction" of the Federal Government, as unlimited power over the treatment and stowage of their human cargoes, as their brethren enjoy, on the coast of Guinea.

Hence large establishments have grown up upon the national domain, provided with prisons for the safe-keeping of the negroes, till a full cargo is procured; and should at any time the factory prisons be insufficient, the public ones, erected by Congress, are at the service of the dealers, and the United States Marshal becomes the agent of the slave trader!

It must be admitted, that the following pictures of the scenes witnessed in the District of Columbia, are drawn by impartial hands. So long ago as 1802, the grand jury of Alexandria complaining of the trade, remarked: "These dealers in the persons of our fellow-men, collect within this district from various parts, numbers of these victims of slavery, and lodge them in some place of confinement until they have completed their numbers. They are then turned out into our streets, and exposed to view *loaded with chains*, as though they had committed some heinous offence against our laws. We consider it as a grievance that citizens from a distant part of the United States, should be permitted to come within the District, and pursue a traffic fraught with so much misery to a class of beings entitled to our protection, by the laws of justice and humanity; and that the interposition of civil authority cannot be had to prevent parents being wrested from their offspring, and children from their parents, without respect to the ties of nature. We consider these grievances demanding legislative redress:"—that is, redress by Congress.

In 1816, Judge Morell of the Circuit Court of the United States, in his charge to the grand jury of Washington, observed, speaking of the slave trade: "The frequency with which the streets of the city had been *crowded with manacled captives*, sometimes on the Sabbath, could not fail to shock the feelings of all humane persons."

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\* Niles's Register.



The same year, JOHN RANDOLPH moved in the House of Representatives for a committee "to inquire into the existence of an inhuman and illegal traffic of slaves carried on, in, and through the District of Columbia, and report whether any or what measures are necessary for putting a stop to the same." The motion was adopted; had it been made twenty years later, it would under the rules of the House, have been laid on the table, "and no further action had thereon."

The Alexandria Gazette of June 22d, 1827, thus describes the scenes sanctioned by our professedly republican and Christian Legislature: "Scarcely a week passes without some of these wretched creatures being driven through our streets. After having been confined, and sometimes manacled in a loathsome prison, they are turned out in public view to take their departure for the South. The children and some of the women are generally crowded into a cart or wagon, while others follow on foot, not unfrequently *hand-cuffed and chained together*. Here you may behold fathers and brothers leaving behind them the dearest objects of affection, and moving slowly along in the mute agony of despair—there the young mother sobbing over the infant whose innocent smiles seem but to increase her misery. From some you will hear the burst of bitter lamentation, while from others, the loud hysteric laugh breaks forth, denoting still deeper agony."

In 1828, a petition for the suppression of this trade was presented to Congress, signed by more than *one thousand inhabitants of this District*.

In 1829, the Grand Jury of Washington made a communication to Congress, in which they say, "Provision ought to be made to prevent purchasers for the purpose of removal and transportation, from making the cities of the District, depots for the *imprisonment* of the slaves they collect. The manner in which they are brought and confined in these places, *and carried through our streets*, is necessarily such as to excite the most painful feelings. It is believed that the whole community would be gratified by the *interference of Congress* for the suppression of these receptacles, and the exclusion of this *disgusting traffic* from the District."

In 1830, the "Washington Spectator" thus gave vent to its indignation:

"*The slave trade in the Capital*.—Let it be known to the citizens of America, that at the very time when the procession which contained the President of the United States and his Cabinet was marching in triumph to the Capitol, another



kind of procession was marching another way ; and that consisted of colored human beings, *handcuffed in pairs*, and driven along by what had the appearance of a man on horseback ! A similar scene was repeated on Saturday last ; a drove consisting of males and females, *chained in couples*, starting from Roly's tavern on foot for Alexandria, where with others they are to embark on board a slave ship in waiting to convey them to the South. Where is the O'Connell in this Republic that will plead for the emancipation of the District of Columbia !”

The advertisements of the dealers, indicate the *extent* of the traffic. The National Intelligencer of the 28th March, 1836, printed at Washington, contained the following advertisements :

“ *Cash for five hundred Negroes*, including both sexes, from ten to twenty-five years of age. Persons having likely servants to dispose of, will find it their interest to give us a call, as we will give higher prices in cash, than any other purchaser who is now or may hereafter come into the MARKET.  
FRANKLIN & AMFIELD, Alexandria.”

“ *Cash for three hundred Negroes*.—The highest cash price will be given by the subscriber, for negroes of both sexes, from the ages of twelve to twenty-eight.

WILLIAM H. WILLIAMS, Washington.”

“ *Cash for four hundred Negroes*, including both sexes, from twelve to twenty-five years of age.

JAMES H. BIRCH, Washington City.”

“ *Cash for Negroes*.—We will at all times give the highest prices in cash for likely young negroes of both sexes, from ten to thirty years of age.

J. W. NEAL & Co., Washington.”

Here we find three traders in the District, advertising in one day for *twelve hundred* negroes, and a fourth offering to buy an indefinite number.

In a later number of the Intelligencer, we find the following :

“ *Cash for Negroes*.—I will give the highest price for likely negroes from ten to twenty-five years of age.

GEORGE KEPHART.”

“ *Cash for Negroes*.—I will give cash and liberal prices for ANY number of young and likely negroes, from *eight* to forty years of age. Persons having negroes to dispose of, will find it to their advantage to give me a call at my residence on

the corner of Seventh-street and Maryland Avenue, and opposite Mr. Williams' *private jail*.

WILLIAM H. RICHARDS."

"*Cash for Negroes.*—The subscriber wishes to purchase a number of negroes for the *Louisiana and Mississippi market*. Himself or an agent at all times can be found at *his jail*, on Seventh-street.

WM. H. WILLIAMS."

The unhappy beings purchased by these traders in human flesh, men and women, and children of *eight* years old, are sent to the South, either over land in coffles, or by sea, in crowded slavers. Fostered by Congress, these traders lose all sense of shame; and we have in the *National Intelligencer*, the following announcement of the regular departure of *three slavers*, belonging to a single factory:

"*Alexandria and New-Orleans Packets.*—Brig *Tribune*, Samuel C. Bush, master, will sail as above on the 1st January—Brig *Isaac Franklin*, Wm. Smith, master, on the 15th January—Brig *Uncas*, Nath. Boush, master, on the 1st February. They will continue to leave this port on the 1st and 15th of each month, throughout the shipping season. *Servants that are intended to be shipped, will at any time be received for safe-keeping at twenty-five cents a day.*

JOHN AMFIELD, Alexandria."

This infamous advertisement of the regular sailing of three slavers, and the offer of the use of the factory prison, appears in one of the principal journals of the United States. Its proprietor has several times been chosen printer to Congress, and there is no reason for believing that he has ever lost the vote of a northern member for this prostitution of his columns.

But the climax of infamy is still untold. This trade in blood; this buying, imprisoning, and exporting of boys and girls eight years old; this tearing asunder of husbands and wives, parents and children, is all legalized *in virtue of authority delegated by Congress!!* The 249th page of the laws of the city of Washington, is polluted by the following enactment, bearing date 28th July, 1831:

"For a LICENSE to trade or traffic in slaves for profit, four hundred dollars."

Such is the character and extent of the American slave trade, impudently and wickedly called by the Senate, "the coasting trade,"—a trade protected and regulated by the very government which in the Treaty of Ghent, with wonderful assurance, declared that "the traffic in slaves is irreconcilable with the principles of justice and humanity."

The government may be fairly said to protect the trade, when it refuses to exercise its constitutional power to suppress it. The very fact that slave traders are *licensed in the District*, is a full and complete acknowledgement that there is authority competent to forbid their nefarious business. The continuance of the traffic under the immediate and "exclusive jurisdiction" of the National Government, stamps with disgrace every member of Congress who assents to it; and more especially, and with peculiar infamy, those northern members who, for party purposes, vote that "Congress ought not in *any way*, to interfere with slavery in the District of Columbia."

But we are constantly told by the apologists of slavery that the American slave trade is beyond the constitutional control of the Federal Government; yet that government abolished the *African* slave trade, and no human being ever questioned its right to do so! But whence was that derived? Solely from the 8th Sec. of the 1st Art. of the Constitution, viz:

"Congress shall have power to regulate commerce with foreign nations, and among the several States."

In virtue of this delegation of power, Congress has made it a capital crime to carry on commerce in *African* slaves. Now that this legislative prohibition of the traffic is constitutional, is proved by the highest possible authority, even the Constitution itself; for that instrument, after giving Congress power to regulate commerce with foreign nations, *restricts it* from abolishing the African slave trade before the expiration of twenty years.\* To *regulate*, we are told, does not include the power to destroy; yet it seems the power to regulate commerce with foreign nations does include the power to interdict an odious, cruel, and wicked branch of it. By what logic then will it be shown that the power to regulate the commerce among the several States, does not include the power to interdict a traffic in men, women, and children? Is it more wicked, more base, more cruel, to traffic in African savages than in native born Americans—in WHITE men, and women and children—in the offspring of our own citizens, and not unfrequently, of very distinguished citizens? Yet it is this abominable commerce that our government fosters and protects. We have seen its watchful guardianship

\* The phraseology of this restriction shows that it was intended to limit the power to regulate commerce as well "among the several States" as with foreign nations. "The migration, or importation of such persons as any of the existing States shall think proper to admit, shall not be prohibited by the Congress prior to the year one thousand eight hundred and eight."—(Art. I. Sec. 9.) If any State should think proper to admit slaves *migrating* from another State, it was not to be restrained from doing so till 1803. If it should think proper to *import* slaves from a foreign country, it might do so notwithstanding the wishes of Congress, till the same period.

over this trade in its unceasing endeavors to obtain compensation from Great Britain for 287 slaves thrown by the winds and waves under her protection. Mr. Van Buren, our Minister in England, in an official note on this subject, (Feb. 25, 1832,) remarked:—

“The Government of the United States respecting the actual and unavoidable condition of things at home, while it most sedulously and rigorously guards against the further introduction of slaves, *protects* at the same time by reasonable laws the rights of the owners of that species of property in the States where it exists, and *permits* its transfer coastwise from one of these States to another, under suitable restrictions to prevent the fraudulent introduction of foreign slaves.”

By the act of Congress of 2d March, 1807, masters of vessels under 40 tons burthen, are forbidden to transport coastwise from one port to another in the United States any person of color to be sold or held as a slave, under the penalty of \$800 for each slave so transported.

By the same act, masters of vessels, over 40 tons burthen sailing coastwise from one port to another, and *intending to transport persons of color to be sold or held as slaves*, must first make out duplicate manifests, specifying the names, sex, age, and stature, of the persons transported, and the names and residence of their owner or shipper. These manifests are to be delivered to the collector of the port who is to retain one, and to return the other to the master with a “*permit*,” endorsed on it, “authorizing him to proceed to the port of destination.” If the master presumes to transport a slave without such permit, not only is the vessel forfeited, but the master is to pay a penalty of \$1000 for each slave shipped. On the arrival of the vessel at the port of destination, the manifest, with the permit, is to be handed to the collector, who thereupon is to grant a “*permit*” for the landing of the slaves, and if any are landed without such permit, the master forfeits one thousand dollars. So it seems Congress may prohibit the slave trade in vessels *under* forty tons; but according to northern politicians, it would be unconstitutional to prohibit it in vessels *over* forty tons; and according to the slaveholders, such a prohibition would cause the dissolution of the Union! But alas! the permission, regulation, and protection of this traffic is in perfect keeping with

THE DUPLICITY OF THE FEDERAL GOVERNMENT IN REGARD  
TO THE SUPPRESSION OF THE AFRICAN SLAVE TRADE.

The great struggle for the abstract principles of human liberty, in which our fathers engaged with so much zeal, had,



at the close of the revolutionary war, excited a very general conviction of the injustice of slavery. When the convention appointed to form a Federal Constitution assembled, the northern and many of the southern delegates were disposed to give the new government such unqualified power over the commerce of the nation, as would enable it to abolish a traffic no less at variance with our republican professions than with the precepts of humanity and religion. A portion of the southern delegates however, insisted on a temporary restriction of this power as the price of their adhesion to the Union; and their threat of marring the beauty, symmetry, and strength of the fair fabric about to be erected by withdrawing from it the support of the States they represented, unfortunately induced the convention to yield to their wishes, and to insert in the Constitution a clause restraining Congress from abolishing the African slave trade for twenty years. Mr. Madison has left us the following history of this iniquitous clause: "The southern States would not have entered into the union of America without the temporary permission of that trade. The gentlemen from South Carolina and Georgia, argued in this manner—'We have now liberty to import this species of property, and much of the property now possessed has been purchased, or otherwise acquired in contemplation of improving it by the assistance of imported slaves. What would be the consequence of hindering us from it? The slaves of Virginia would rise in value and we should be obliged to go to your markets.'"—*Debates in Virginia Convention.*

We have here the solution of much contradictory action on the part of the slaveholders in regard to this trade. It seems to have been early discovered that its abolition would be advantageous to the slave-breeders, but not to the slave-buyers. Owing to climate, soil, and productions, slave labor is less profitable in Maryland and Virginia, than in the more southern States; hence, the greater demand for this labor in the latter States has, since the cessation of importation, caused a constant influx of slaves from the former. The breeders in Maryland and Virginia have, for the most part, striven in good faith for the total suppression of the African trade; while those who originally refused to enter the Union unless permitted for at least twenty years, to import their slaves directly from Africa, have since evinced very little desire to secure to their neighbors the monopoly of the market.

Whenever the opponents of Abolition find it convenient to refer to the action of the Federal Government on the sub-

ject of slavery, they laud and magnify its horror of the *African* slave trade, and exultingly point to the law of Congress, branding it with the penalties of *piracy*. And yet we are inclined to believe, that the conduct of our government in relation to this very subject, is one of the foulest stains attached to our national administration. Has the trade been suppressed? Has the Federal Government in good faith endeavored to suppress it? These are important questions, and we shall endeavor to solve them by an appeal to facts and official documents.

In a debate in Congress in 1819, Mr. Middleton of South Carolina, stated, that in his opinion, 13,000 Africans were annually smuggled into the United States. Mr. Wright of Virginia, estimated the number at 15,000! The same year, Judge Story of the Supreme Court of the United States, in a charge to a Grand Jury, thus expresses himself:—"We have but too many proofs from unquestionable sources, that it (the African trade) is still carried on with all the implacable ferocity and insatiable rapacity of former times. Avarice has grown more subtle in its evasions, and watches and seizes its prey with an appetite quickened rather than suppressed by its guilty vigils. *American citizens* are steeped to their very mouths, (I can scarcely use too bold a figure,) in this stream of iniquity."

On the 22d Jan. 1811, the Secretary of the Navy wrote to the commanding naval officer at Charleston. "I hear, not without great concern, that the law prohibiting the importation of slaves, has been violated in *frequent instances*, near St. Mary's, since the gun-boats have been withdrawn from that station."

On the 14th March, 1814, the collector of Darien, Georgia, thus wrote to the Secretary of the Treasury:—"I am in possession of undoubted information, that African and West India negroes are almost daily illicitly introduced into Georgia, for settlement, or passing through it to the territories of the United States, for similar purposes. These facts are notorious, and it is not unusual to see such negroes in the streets of St. Mary, and such too, recently captured by our vessels of war, and ordered for Savannah, were illegally bartered by *hundreds* in that city, for this bartering (or *bonding*, as it is called, but in reality *selling*,) actually took place before any decision has passed by the Court respecting them. I cannot but again express to you, sir, that these irregularities, and mocking of the laws by men who understand them, are such that it requires the immediate interposition of Congress

to effect the suppression of this traffic; for as things are, should a faithful officer of the Government apprehend such negroes, to avoid the penalties imposed by the laws, *the proprietors disclaim them, and some agent of the Executive demands a delivery of the same to him, who may employ them as he pleases, or effect a sale by way of bond for the restoration of the negroes when legally called on so to do, which bond is understood to be forfeited, as the amount of the bond is so much less than the value of the property.* After much fatigue, peril, and expense, *eighty-eight* Africans are seized and brought to the Surveyor to Darien; they are demanded by the Governor's agent. Notwithstanding the knowledge which his Excellency had that these very Africans were some weeks within six miles of his Excellency's residence, there was no effort, no stir made by him, his agents, or subordinate State officers, to carry the laws into execution; but no sooner than it was understood that a seizure had been effected by an officer of the United States, a demand is made for them; and it is not difficult to perceive, that the very aggressors may, by a forfeiture of the *mock bond*, be again placed in possession of the smuggled property."

In 1817, General David B. Mitchell, Governor of Georgia, resigned the Executive chair, and accepted the appointment under the Federal Government, of Indian Agent at the Creek Agency. He was afterwards charged with being concerned in the winter of 1817 and 1818, in the illegal importation of Africans. The documents in support of the charge, and those also which he offered to disprove it, were placed by the President in the hands of Mr. Wirt, the Attorney General of the United States, who on the 21st January, 1821, made a report on the same. From this report, it appears that no less than 94 Africans were smuggled into Georgia, and carried to Mitchell's residence. Mr. Wirt concludes his report with the expression of his conviction, "that Gen. Mitchell is guilty of having prostituted his power as Agent for Indian Affairs at the Creek Agency, to the purpose of aiding and assisting in a conscious breach of the Act of Congress of 1807, in prohibition of the slave trade, and this from mercenary motives."\*

On the 23d May, 1817, the Collector at Savannah wrote to the Secretary of the Treasury:—"I have just received information from a source on which I can implicitly rely, that it has already become the practice to introduce into the State of Georgia across St. Mary's River, from Amelia Island, E. Florida, Africans who have been carried into the

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\* Senate papers, 1st Sess. 17th Cong. No. 93.

port of Ferdinanda. It is further understood, that the evil will not be confined altogether to Africans, but will be extended to the worst class of *West India slaves*."

Captain Morris of the Navy, informed the Secretary of the Navy, (18th June, 1817,)—"Slaves are smuggled in through the numerous inlets to the westward, where *the people are but too much disposed to render every possible assistance*. Several hundred slaves are now at Galveston, and persons have gone from New-Orleans to purchase them."

On the 17th April, 1818, the Collector at New-Orleans, wrote to the Secretary of the Treasury:—"No efforts of the officers of the Customs alone, can be effectual in preventing the introduction of Africans from the westward: to put a stop to that traffic, a naval force suitable to those waters is indispensable; and vessels captured with slaves *ought not to be brought into this port, but to some other in the United States, for adjudication*." We may learn the cause of this significant hint, from a communication made the 9th July, in the same year, to the Secretary, by the Collector at Nova-Ibera. "Last summer I got out State warrants, and had negroes seized to the number of eighteen, which were part of them *stolen out of the custody of the coroner*; the balance were condemned by the District Judge, and the informers received their part of the nett proceeds from the State Treasurer. Five negroes that were seized about the same time, were tried at Opelousa in May last, by the same Judge. He decided that some Spaniards that were supposed to have set up a *sham claim*, stating that the negroes had been *stolen from them on the high seas*, (!!) should have the negroes, and that the *persons who seized them should pay half the costs*, and the State of Louisiana the other. This decision had such an effect as to render it almost impossible for me to obtain any assistance in that part of the country."

The Secretary of the Treasury, in a letter to the Speaker of the House of Representatives, 20th January, 1819, remarked:—"It is understood that proceedings have been instituted under the State authorities which have terminated in the SALE of persons of color illegally imported into the States of Georgia and Louisiana, during the years 1817 and 1818. There is no authentic copy of the acts of the Legislatures of these States upon this subject in this department, but it is understood that in both States, Africans and other persons of color, illegally imported, are directed to be SOLD FOR THE BENEFIT OF THE STATE."\*

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\* In 1835, the New-York Journal of Commerce asserted that vessels had been recently fitted out in that port for the African slave trade.



We have now, we think, proved from high authority, that notwithstanding the legal prohibition of the slave trade, the people, the courts, and the Executive authority in the planting States, have afforded facilities for the importation of Africans. It now becomes important to inquire how far the Federal Government has enforced the penalties imposed by the Act forbidding the trade.

On the 7th January, 1819, Joseph Nourse, Register of the Treasury, in an official document submitted to Congress, certified that there were no records in the Treasury department of any forfeitures under the Act of 1807, abolishing the slave trade! So that notwithstanding the thirteen or fifteen thousand slaves, said by southern members of Congress to be annually smuggled into the United States—notwithstanding American citizens were declared by a Judge of the Supreme Court to be “steeped to their very mouths in this stream of iniquity,” *not one single forfeiture* had in eleven years reached the Treasury of the United States! Mr. Nourse, however, states, that it was *understood* that there had been recently *two* forfeitures, one in South Carolina, and the other in Alabama. Respecting the first, we have no information; of the latter, we are able to present the following extraordinary history.

The Collector at Mobile, writing Nov. 15, 1818, to the Secretary of the Treasury, remarks: “Should West Florida be given up to the Spanish authorities, both the American and Spanish vessels it is to be apprehended will be employed in the importation of slaves with an ultimate destination to this country; and even in its present situation, the greatest facilities are afforded for obtaining slaves from Havana and elsewhere through West Florida. *Three* vessels, it is true, were taken in the attempt last summer, but this was owing rather to *accident* than any well-timed arrangement to prevent the trade.”

These three vessels brought in 107 slaves. By what mistake they were captured we are not informed, but another

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The Boston Express of 17th December, 1838, thus gives the substance of the statements made by Mr. Elliott Cresson, of the Pennsylvania Colonization Society, in a public address delivered a few days before in Boston:

“Out of 177 slave ships which arrive at Cuba every year, five-sixths are owned and fitted out from ports in the United States; and the enormous profits accruing from their voyages remitted to this country. One house in New-York received lately for its share alone the sum of \$250,000. Baltimore is largely interested in this accursed traffic as well as New-York—and even Boston, with all her religion and morality, does not disdain to increase her wealth by a participation in so damnable a business. A gentleman of the highest respectability lately informed Mr. Cresson that a sailor in this city told him that he had received several hundred dollars of hush money to make him keep silent, and when he mentioned the names of his employers the gentleman says he was actually afraid to repeat them, so high do they stand in society. A captain in the merchant service from New-York, was lately offered his own terms by two different houses provided he would undertake a slave voyage.”

Of the truth of these statements we know nothing.

letter from the Collector shows us how the "accident" was remedied. "The vessels and cargoes and slaves have been delivered on *bonds*; the former to the owners, and the slaves to three other persons. The Grand Jury found true bills against the owners of the vessels, masters and supercargo—all of whom have been discharged—why or wherefore, I cannot say, except that it could *not* be for want of proof against them." From this letter it is most probable that the forfeiture of which Mr. Nourse had heard, if any in fact occurred, was the collusive forfeiture of the Bonds.\*

We most freely acknowledge that so far as the statute book is to be received as evidence, there can be no question of the sincerity and zeal with which the Federal Government has labored to suppress the African slave trade: but laws do not execute themselves, and we shall now appeal to the statute book, and to the minutes of Congress, to convict the Government of gross hypocrisy and duplicity.

It is difficult to understand why men who are engaged in breeding slaves for the market, or why men who are employed in buying and working slaves, should have any moral or religious scruples about the African trade; and when we find political leaders professing to be ready to sacrifice the Union to secure the perpetuity of the *American* trade, we may surely be excused for doubting the sincerity of their denunciations against the foreign traffic.

In the year 1817, a new and sudden zeal was excited in Congress for the abolition of the trade, and this zeal as we shall see, was the offspring of the efforts of Virginia to colonize the free blacks. The legislature of that State had for years been anxious to get rid, not of the slaves, but of the free negroes. On the 1st January, 1817, the Colonization Society, the result of Virginia policy, was organized at Washington, and immediately presented a memorial to Congress praying for national countenance. The committee to whom this memorial was referred, reported (11th Feb.) two resolutions:—1st, Calling on the President to enter into negotiations with foreign powers for the "entire and immediate abolition of the traffic in slaves;" and 2nd, asking him to obtain the consent of Great Britain to our colonizing free people of color at Sierra Leone. Thus early was the cause of Colonization connected with the agitation in Congress about the slave trade; a connexion from which, as we shall presently see, the Society reaped a very large pecuniary ad-

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\* The documents we have quoted on this subject, are to be found in Reports of Committees.—1st Sess. 21st Cong. No. 348.

vantage. The resolutions were not acted on, and the next session, Mr. MERCER, regarded in Virginia as the father of the Society, succeeded in getting a vote of the House (Dec. 30th, 1817,) instructing the committee on the memorial from the Society, to report on the expediency of rendering the laws against the slave trade more effectual. Of this committee Mr. Mercer was himself the chairman; and he recommended in his report, that the President should take measures for procuring *suitable territory in Africa for colonizing free people of color with their own consent*; and that armed vessels should occasionally be sent to Africa for the purpose of interrupting the trade. The suggestions of the committee were not adopted, but the ensuing session, (3d March, 1819,) a new act against the slave trade was passed, which gave "a local habitation" to the present colony of Monrovia; and was equivalent to a liberal and national grant to the Society. By this act, the President was authorized to restore to their country, such Africans as might be captured on board of slavers, or illegally introduced into the United States; and he was to appoint agents on the coast to receive them. Mr. Monroe, then President of the United States, was a zealous colonizationist, and was afterwards placed at the head of the Auxiliary Society. Let us see what use he made of the powers entrusted to him by the act of 1819. Many years after, an inquiry was instituted in Congress as to the expenditures under this law, and the Secretary of the Navy (1830,) reported that "252 persons\* of this description (recaptured Africans) have been removed to the settlement provided by the Colonization Society on the coast of Africa; and that there had been expended therefor, the sum of *two hundred and sixty-four thousand seven hundred and ten dollars*. \* \* \* The practice has been to furnish these persons with provisions for a period of time after being landed in Africa, varying from six months to one year; to provide them with houses, arms, and ammunition; to pay for the erection of fortifications, for the building of vessels for their use, and in short to *render all the aid required for the founding and support of a colonial establishment*."

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\* We have not been able to ascertain from what sources these Africans were obtained, but that they were not *all* of them trophies of the zeal of our cruisers in the cause of humanity, appears from the following extracts from official documents. "There are now in the charge of the Marshal of Georgia, 248 Africans taken out of a South American privateer, the 'General Ramirez,' whose crew mutinied, and brought the vessel into St. Mary's, Georgia."—Letter of Sec'y of Navy, 7th Feb'y, 1821. "A decision of the Supreme Court in the case of the 'General Ramirez,' placed under the control of the Government from 125 to 130 Africans, who were brought into Georgia, and arrangements are making to send them to the Agency."—(Liberia).—Report of Sec'y of Navy, Dec. 2d, 1825.

A report from Amos Kendall, Fourth Auditor of the Treasury, discloses more particularly the manner in which the "*Act in addition to the Acts prohibiting the slave trade,*" was made subservient to the purposes of the Colonization Society.

"In May, 1822, the Secretary of the Navy directed that *ten* liberated Africans should be delivered to Mr. J. Ashmun, for transportation to Africa. The Secretary authorized him to take out at the *expense of the Government*, 15,000 hard brick, 5,000 feet of assorted timber, 30 barrels of ship bread, eight of tar, four of pitch, four of rosin, and two of turpentine. \* \* \* \* \*

"In the simple grant of power to an agent to *receive* recaptured negroes, it requires broad construction to find a grant of authority to colonize them, to build houses for them, to furnish them with farming utensils, to pay instructors to teach them, to purchase ships for their commerce, to build forts for their protection, to supply them with arms and munitions, and to employ the army and navy in their defence."\*

It cannot be denied that the friends of Colonization had great encouragement to proceed in their warfare against the slave trade. Accordingly Mr. Mercer, as the chairman of the committee to whom a memorial from the Society had been referred, reported (May 9th, 1820,) *a Bill incorporating the Society*, and another *making the slave trade piracy*; and likewise two resolutions,—the first requesting the President to negotiate with foreign powers, "*on the means of effecting an entire and immediate abolition of the slave trade*;" and another requesting him to make such use of the public armed vessels as may aid the *efforts of the Colonization Society*. The first resolution was adopted, and the consideration of the other postponed. A few days after, (May 15th,) the Act making the African slave trade piratical, was passed. But laws do not execute themselves: and if any slave trader has suffered death in the United States as a pirate, we confess our ignorance of the fact.†

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\* Senate Documents. 2 Sess. 2 Cong.

† In 1820, a slave vessel, the *Science*, fitted out at New-York, and commanded by Adolphe Lacoste of Charleston, South Carolina, was captured on the coast of Africa, by the United States Ship, *Cyane*, and Lacoste sent home for trial. The trial took place in the Circuit Court of the United States, before Judge Story. The evidence was full and unequivocal; Lacoste was convicted, and sentenced to five years' imprisonment, and to the payment of a fine of \$3,000. Had the crime been committed a few months later, the penalty would have been death, under the new law, declaring the trade piracy. Lacoste received a *full* pardon from the President, and the reader may thence judge, whether had he been convicted as a pirate, his life would have been much in danger. The reasons assigned for the pardon, were youth, previous good character, and an aged mother.—*Niles's Register*, April 20, 1822.



It certainly required some little assurance in the House of Representatives, thus to order a negotiation with foreign powers, for the suppression of the trade, when the Federal Government had itself been so remiss in its efforts, that both Houses of the British Parliament had, the year *before*, (July 1819,) addressed the Prince Regent, praying him to renew "his beneficent endeavors, 'more especially with the Governments of France and *the United States of America*, for the effectual attainment of an object we all profess to have in view:" and a negotiation had already been actually commenced with our Government, proposing to concede "to each other's ships of war, a qualified right of search, with a power of detaining the vessels of either State, *with slaves actually on board*:"\* and a positive refusal to this proposal had already been returned. There is no evidence that our Government ever took a single measure in consequence of this resolution; and under all the circumstances of the case, it is not uncharitable to believe, that it was intended to save appearances.

We must now beg the reader's attention to a new act, in this farce of suppressing the slave trade.

In 1814, our government concluded a war with Great Britain, and in the treaty of peace, gave its assent to the following article. "Whereas the traffic in slaves is irreconcilable with the principles of humanity and justice; and whereas His Majesty and the United States are desirous of continuing their efforts to promote its entire abolition, it is hereby agreed, that both the contracting parties shall use their best endeavors to accomplish so desirable an object."

On the 29th January, 1823, Mr. Stratford Canning, the British Minister at Washington, addressed a letter to the Secretary of State, reminding him of this pledge, and calling on the American Government either to assent to the plan proposed by Great Britain, or to suggest some other efficient one in its place. After the reception of this letter, and before the return of an answer, the following resolution was passed (28th Feb.) by the House of Representatives, viz.

"Resolved, that the President of the United States be requested to enter upon and prosecute from time to time, such negotiations with the several maritime powers of Europe and America, as he may deem expedient, for the effectual abolition of the African slave trade, *and its ultimate denunciation as piracy, under the laws of nations, by the consent of the civilized world.*"

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\* Letter from Lord Castlereagh to Mr. Rush, June 20, 1818.

The British Minister was then informed, in answer to his letter, that the *plan* proposed by the United States was a *mutual* stipulation to annex the penalty of piracy to the offence of participating in the trade, by the citizens and subjects of the two parties. Mr. Canning replied, that "Great Britain desires no other, than that any of her subjects who so far defy the laws, and dishonor the character of their country as to engage in a trade of blood, proscribed not more by the act of the Legislature, than by the national feeling, should be detected and brought to justice even by *foreign hands*, and from under the protection of her flag." He nevertheless urged a limited concession of the right of search, as the only *practical* cure of the evil; and he communicated the fact, that so late as January, 1822, it was stated officially by the Governor of Sierra Leone, "that the fine rivers of Nunez and Pongas were entirely under the control of renegade European, and *American* slave traders." He then proposed that a mutual right of search should be conceded, to be confined to a fixed number of cruisers on each side; to be restricted to certain parts of the ocean; and that to prevent abuses, these cruisers should act under regulations prepared by mutual consent; and moreover, that this concession should be made only for a short time, that if found inconvenient in practice, it might be discontinued.\*

But the Republic stood on its dignity, and would not condescend to yield a concession which Great Britain, France, Spain, Portugal, the Netherlands, Denmark, Sweden, and Sardinia, have thought it no degradation to make in the cause of humanity.

But still the American Government was *very* anxious that every man of every nation, who engaged in the traffic of slaves on the coast of Africa, (not in the District of Columbia,) should be hung by the neck till he was dead; and forthwith, in obedience to the resolution of 25th February, despatches were forwarded to the Cabinets of France, Spain, Portugal, Russia, the Netherlands, Buenos Ayres, and Columbia, announcing the desire of the United States to declare the trade piracy, by the common consent of nations.

It is generally understood, that a pirate is an enemy to the human race, and may be put to death by any government in whose hands he may chance to fall. If this was not the purport of the proposition of the House of Representatives, that the trade should be denounced "as **PIRACY** under the laws

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\* Letter from Mr. Stratford Canning to the Secretary of State, 18th April, 1823.

of nations, by the *consent of the civilized world*," we may well ask, what did it mean?

On the 24th June, 1823, instructions were forwarded to our Minister in England, authorizing him to conclude a treaty with Great Britain on the subject of the slave trade, on certain conditions. "The *draft* of a convention," says the Secretary of State, "is herewith enclosed, which, IF the British Government should agree to treat upon this subject, on the basis of a *legislative* prohibition of the slave trade by both parties under the penalties of PIRACY, you are authorized to propose and conclude."

Now it should be remembered, that at this time the trade was not piratical by the British laws, and the English Ministry could not make it so by treaty. We therefore proposed a *condition* with which possibly, they might not have it in their power to comply. The ministry, however, when made acquainted with the condition, felt confident of the acquiescence of Parliament. "The British Plenipotentiaries," says Mr. Rush, in his letter to the Secretary of State, "gave their unhesitating consent to the principle of denouncing the traffic as piracy, *provided* we could arrive at a common mind on all the other parts of the plan proposed."

The treaty, nearly verbatim, with a draft sent from Washington, was signed at London on the 13th March, 1824; and a few days afterwards, according to a previous understanding, and in fulfilment of the *condition* exacted by us, Parliament passed an Act, declaring that all British subjects found guilty of slave trading, "shall suffer death without benefit of clergy, and loss of lands, goods, and chattels, as PIRATES, felons, and robbers upon the seas, ought to suffer."

This treaty provided in substance, that the cruisers of either party on the coast of Africa, *America*, and the West Indies, might seize slaves under the flag of the other, and send them *home* to the country to which they belonged, where they should be proceeded against as pirates. So that in fact the whole concession made by us to Great Britain, amounted to no more than permitting her to arrest *our* pirates, and to deliver them to *our* courts for trial; and in return, she granted us precisely the same right with respect to her pirates.

The treaty was submitted of course to the Senate for ratification, which, under the circumstances of the case, one would think, must have followed as a matter of course. The Senate, however, thought otherwise. The treaty was laid before them on the 30th of April; but as they delayed to act upon it, the British Minister at Washington became un-

easy, and on the 16th of May, addressed a letter to the Secretary of State, complaining of the postponement of the ratification, especially as the project of the convention had *originated* with the United States; and as Great Britain "had not hesitated an instant to comply with the preliminary act desired by the President," the Legislative prohibition of the slave trade under the penalties of piracy.

The President naturally feeling his own good faith compromised by the hesitation of the Senate, now sent them a confidential message, urging the ratification of the treaty. He remarked that the rejection of the treaty would subject the Executive, Congress, and the Nation, "to the charge of *insincerity* respecting the great result of the final suppression of the slave trade. To invite all nations with the statute of piracy in our hands, to adopt its principles as the law of nations, and yet to deny to all the common rights of search for the pirate, whom it would be impossible to detect without entering and searching the vessel, would expose us not simply to the charge of inconsistency."

The Senate after long debates, finally ratified the treaty, in a mutilated form. They struck out the word, "America," in the clause authorizing the seizures of slavers on "the coasts of Africa, America, and the West Indies." They also expunged the articles applying the provisions of the treaty, to vessels *chartered*, as well as owned by the citizens or subjects of either party; and to the citizens or subjects of either party carrying on the trade under *foreign flags*; and they added an article authorizing either party to terminate the treaty at any time, on giving six months notice.

It will have been observed from the documents we have quoted, that the slaves imported into the United States, have been chiefly introduced through the Spanish possessions on our southern frontiers; slavers direct from Africa, rarely having the hardihood to enter our ports, and discharge their cargoes; while small vessels from the West Indies, have occasionally found their way into the southern waters. Of course the treaty as altered by the Senate, would afford but little interruption to this mode of stocking the plantations of Louisiana and the neighboring States.

As *chartered* vessels were excepted, our traders would only have to hire slavers instead of owning them, to be exempted from the hazard of being arrested and sent home for trial, by British officers; or if even on board their own vessels, by running up a *foreign flag*, they would escape the penalties of piracy.



The British Cabinet refused to agree to the treaty thus despoiled of all its efficiency; but with wonderful simplicity, they proposed to restrict the right of search on the coast of America, to the coast of the *southern* States. This proposition was of course, promptly rejected by our Minister in England.

The British Government vainly cherishing the hope, that the United States might still consent to some combined effort to destroy a trade they professed to abhor, offered through their Minister at Washington, to consent to a treaty, word for word the same as the one the Senate had ratified, with the single exception of restoring the word, "America." To this, Mr. Clay, then Secretary of State, replied, that "from the views entertained by the Senate, it would seem unnecessary and inexpedient any longer to continue the negotiation respecting the slave convention, with any hope that it can assume a form satisfactory to both parties. That a similar convention had been formed with Columbia, on the 10th December, 1824, excepting that the *coast of America was excepted from its operation*; and yet, notwithstanding this conciliatory feature, the Senate *had by a large majority refused to ratify it.*"\*

Negotiations have since been renewed on this subject; and France has united with Great Britain, in urging the Cabinet at Washington to co-operate with them in putting an end to the African slave trade. The correspondence has not been made public, but we learn from the Edinburgh Review, for July, 1836, that the final answer of the American Government is, that "*under no condition, in no form, and with no restriction, will the United States enter into any convention, or treaty, or combined efforts of any sort or kind with other nations, for the suppression of this trade.*"

To our readers we leave the task of making their own comments on this history of duplicity and hypocrisy; and proceed to other details.

On the 2nd November, 1825, the Columbian Minister at Washington, in the name of his Government, invited the United States to send delegates to a Congress of the South American Republics, to be held at Panama. In enumerating the topics to be discussed in the proposed Congress, he remarked; "The consideration of means to be adopted for the entire abolition of the African slave trade, is a subject sacred to humanity, and interesting to the policy of the American States. To effect it, their energetic, general, and uni-

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\* The documents quoted on this subject, may be found in State Papers, 1st Sess. 19 Cong. Vol. 1. And in Reports of Committees, 1st Sess. 21 Cong. Vol. 3, No. 348.

form co-operation is desirable. *At the proposition of the United States*, Columbia made a convention with them on this subject, which *has not been ratified by the Government of the United States*. Would that America, which does not think politic what is unjust, contribute in union, and with common consent, to the good of Africa!"

This document was submitted to the Senate, and on the 16th January, 1826, a committee of the Senate made a report in relation to it, in which they observe: "The United States have not certainly the right, and ought never to feel the inclination to dictate to others who may differ with them on this subject," (the slave trade,) "nor do the committee see the expediency of *insulting other States by ascending the moral chair*, and proclaiming from thence mere abstract principles, of the rectitude of which each nation enjoys the perfect right of deciding for itself."

The remarks made on this occasion by Mr. White, a Senator from Tennessee, are worthy of observation. "In these new States (the S. American Republics,) some of them have put it down in their fundamental law, 'that whoever owns a slave shall cease to be a citizen.' Is it then fit that the United States should disturb the quiet of the *southern and western States* upon any subject connected with slavery? I think not. Can it be the desire of any prominent politician in the United States, to divide us into parties upon the subject of slavery? I hope not. Let us then cease to talk about slavery in this House; let us cease to negotiate upon any subject connected with it."

We have seen most abundantly, that slaveholders have no objection to talk about slavery in Congress, or to negotiate about it with foreign nations, when the object is to guard their beloved institution from danger. It is only on the abominations of the system, and the means of removing it, that every tongue must be mute, and the Federal Government passive. Turning from the consideration of our professions, as contrasted with our conduct in regard to the suppression of the African slave trade, let us next take a view of

#### THE EFFORTS OF THE FEDERAL GOVERNMENT TO PREVENT THE ABOLITION OF SLAVERY IN THE ISLAND OF CUBA.

At the time of the Congress of Panama, Spain was still at war with her late colonies, and of course they were authorized by every principle of national law, as well as of self-defence, to carry their arms into the dominions of their enemy. Cuba was at a short distance, devoted to the royal

cause, and affording a depot for the naval force ever ready to prey upon the commerce of the republics. Under these circumstances, Mexico and Columbia meditated the invasion and conquest of that island. But these republics, on achieving their own freedom, had given freedom to their slaves; and it was probable that they would manifest equal regard for human rights, were they to become masters of Cuba. These remarks will explain the following extract from the instructions given to the ministers appointed to represent the United States at the Congress of Panama.

“It is required by the frank and friendly relations which we most anxiously desire ever to cherish with the new republics that you should, without reserve, explicitly state that the United States have too much at stake, in the fortunes of Cuba, to allow them to see with indifference a war of invasion prosecuted in a desolating manner, or to see employed, in the purposes of such a war, one race of the inhabitants combatting against another, upon principles and with motives that must inevitably lead, if not to the extermination of one party or the other, to the most shocking excesses. The humanity of the United States in respect to the weaker, and which in such a terrible struggle would probably be the suffering portion, and the duty to defend themselves against the *contagion* of such near and dangerous examples, would constrain them, even at the hazard of losing the friendship of Mexico and Columbia, to employ all the means necessary to their security.”\*

The obvious meaning of all this, in plain English, divested of its diplomatic circumlocution, is simply that the Federal Government, in order to protect the slavery of the South from the shock it might receive from emancipation in Cuba, would, if necessary, go to war with our sister republics to prevent the invasion of that island.

But so long as Spain refused to acknowledge the independence of her revolted colonies, the war would be continued, Cuba would be exposed to invasion, and the slave States to the “*contagion*” of emancipation. Hence the cabinet at Washington became exceedingly anxious to act the part of peace-makers. Our Minister at St. Petersburg was instructed “to endeavor to engage the Russian Government to contribute its best exertions towards terminating the existing contest between Spain and her colonies. From the vicinity of Cuba to the United States, its valuable commerce and *the nature of its population*, their government cannot be

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\* Letters of Instructions from Mr. Clay, Secretary of State, to Messrs. Anderson and Sargeant, 8th May, 1826.

indifferent to any political change to which that island may be destined.”\*

Spain also was implored, through the American Minister at Madrid, to be reconciled to her undutiful children. “*It is not for the new republics,*” said Mr. Clay, in his letter (27th April, 1825,) to Mr. Everett, “that the President wishes you to urge upon Spain the expediency of concluding the war. If the war should continue between Spain and the new republics, and those islands (Cuba and Porto Rico) should become the object and theatre of it, their fortunes have such a connexion with the people of the United States, that they could not be indifferent spectators; and the possible contingencies of a protracted war *might bring upon the Government of the United States duties and obligations, the performance of which, however painful it should be, they might not be at liberty to decline.*”†

The proposed invasion was abandoned; but the fears of our Government were not allayed. The war continued, and some contingency arising from it, might give liberty to the tens of thousands in Cuba pining in bonds. A new attempt was made to induce Spain to remove the danger by concluding the war. On the 22d October, 1829, Mr. Van Buren then Secretary of State, instructed Mr. Van Ness, our Minister in Spain, to press upon that court a reconciliation with the South American republics. “Considerations,” he remarked, “*connected with a certain class of our population, make it the interest of the southern section of the Union, that no attempt should be made in that island to throw off the yoke of Spanish dependence; the first effect of which would be the sudden emancipation of a numerous slave population, whose result could not but be very sensibly felt upon the adjacent shores of the United States.*”

Fortunate it is for the cause of humanity, that the greatest republic upon earth had not the power to prevent “the sudden emancipation of a numerous slave population” in the British West Indies, on the 1st of August, 1838; “whose result,” blessed be God, is and will be “very sensibly felt on the adjacent shores of the United States.”

The subject of the Panama mission was debated at great length in both Houses of Congress, and frequent allusions were made by the speakers to Cuba. Let us hearken to the sentiments expressed by some of our republican legislators.

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\* Letters from Mr. Clay to Mr. Middleton, 10th May, 1825.

† Senate Documents, 1st Sess. 19 Cong. vol. 3.



Mr. RANDOLPH of Virginia : " Cuba possesses an immense negro population. In case those States (Mexico and Columbia) should invade Cuba at all, it is unquestionable that this invasion will be made with this principle,—this genius of universal emancipation,—this sweeping anathema against the white population in front,—and then sir, *what is the situation of the Southern States ?*"

Mr. JOHNSON of Louisiana : " We know that Columbia and Mexico have long contemplated the independence of that island (Cuba.) The final decision is now to be made, and the combination of forces and plan of attack to be formed. What, then, at such a crisis, becomes the duty of the Government ? Send your ministers instantly to this diplomatic assembly, where the measure is maturing. Advise with them—remonstrate—MENACE, if necessary, against a step so dangerous to us, and perhaps fatal to them."

Mr. BERRIEN of Georgia : " The question to be determined is this : With a due regard to the safety of the Southern States, you can suffer these islands (Cuba and Porto Rico) to pass into the hands of BUCANIERS, drunk with their new-born liberty ? If our interests and our safety shall require us to say to these new republics, Cuba and Porto Rico *must* remain as they are, we are free to say it, and by the blessing of God and the *strength of our arms*, to enforce the declaration ; and let me say to gentlemen, these high considerations do require it. *The vital interests of the South demand it.*"

These new republics were stigmatized by this honorable gentleman as bucaniers ; not that they were robbers, but because they had *ceased* to rob the poor and helpless ; and the evidence of their being drunk with liberty, was their *practical* acknowledgement of the principles of human rights, *professed* in our declaration of independence.

Mr. FLOYD of Virginia : " So far as I can see, in all its bearings, it (the Panama Congress) looks to the conquest of Cuba and Porto Rico ; or, at all events, of tearing them from the crown of Spain. The interests, if not safety of our own country, would rather require us to interpose to prevent such an event, and I would rather take up arms to prevent, than to accelerate such an occurrence."—*Congressional Debates*, 2d vol.

The facts and sentiments we have now exhibited, prove beyond cavil, that this mighty republic volunteered to solicit the aid of foreign monarchs to perpetuate slavery in Cuba, and was strongly disposed to incur the hazard and calamities of war in the cause,—not of liberty, but of bondage.

Having noticed our watchful guardianship over Cuba, we will next advert to

#### THE HOSTILITY OF THE FEDERAL GOVERNMENT TO HAYTI.

To do justice to this part of our subject, we must beg the patience of our reader while we briefly lay before him a few historical facts.

The Island of St. Domingo was one of the most valuable colonies belonging to the crown of France. It is about 450 miles long, and 150 wide. Its population in 1790, was estimated as follows :

White inhabitants,	42,000
Free colored inhabitants,	44,000
Slaves,	600,000
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Total,	686,000

Of the free colored inhabitants, numerically equal with the whites, many were men of education and property, landed proprietors, and the holders of slaves. Still they were debarred from all political privileges on account of their complexion. At the commencement of the French Revolution, the National Assembly abolished this discrimination on account of color, and gave the *free* blacks in the colonies, the same civil rights that were possessed by their white brethren. The pride of the latter led them to refuse submission to this humiliating decree of the mother country, and a *civil* war between the whites and the free blacks, ensued. No interference whatever with the rights of slaveholders as such, had at this time been attempted, either in France or the colony ; and the dissensions which convulsed the island, for a long time related exclusively to the political condition of the free colored population. In August, 1791, a partial insurrection of the slaves occurred, favored by the quarrels of their masters. In some instances the free blacks united with the whites, in their efforts to suppress the insurrection, and in others, they availed themselves of the aid of the revolted slaves, against the planters.

In 1792, the French Government sent over three commissioners with 6000 troops, to enforce their decree respecting the free blacks, and to restore order. Many of the planters, however, still resisted ; while others took sides with the Government, and the distractions of the island were now aggravated by a civil war between the *whites themselves*.

A portion of the planters, abhorring the attempt of the Government to elevate the free blacks to a political equality

with themselves, now intrigued with Great Britain to seize upon the island, and thus to save them from the degrading consequences of republican principles. In compliance with their invitation, conveyed through their agent, M. Charmilly, an expedition was fitted out at Jamaica, for the capture of St. Domingo; and on the 19th Sept. 1793, arrived at Jeremie. Only a few days before the appearance of the British fleet on the coast, one of the French commissioners, who happened at the moment to be acting alone, in the absence of his colleagues, having received intelligence of the intended invasion, and knowing the disaffection of the planters, issued a hasty proclamation, giving freedom to all the slaves, as the only means of preserving the colony from conquest.\*

The free negroes and the manumitted slaves united in defending the island against the invaders, while an army of 2000 of the white inhabitants, ranged themselves under the British standard. The French commissioners soon after returned to France; great numbers of the planters emigrated; and the island was virtually abandoned to the blacks, except so much of it as was occupied by the British troops. These troops were from time to time reinforced by detachments from Europe and the West Indies—but in vain. The blacks under Toussaint, who was appointed by the Government at home, "Governor General of the armies of St. Domingo," continued the contest for about five years, and finally succeeded in driving the English from the island. Britain being in the meantime at war with France, her naval forces prevented all intercourse between the colony and the mother country: and the blacks thus left to themselves, declared themselves independent on the 1st of July, 1798, and organized the Government of HAYTI.

The peace of Amiens afforded Bonaparte an opportunity to attempt the subjugation of the island, and the reduction of its inhabitants to slavery.

Early in January, 1802, a French army of 20,000 men were landed at St. Domingo, and various reinforcements afterwards followed.

The war was waged with atrocious cruelty on the part of the French, and the blacks aided by the climate, succeeded in destroying about 40,000 of their enemies in eleven months; and on the 19th of November, 1802, the wrecks of the invading army surrendered to Dessalines, the black chief.

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\* The ensuing year, 1794, by a decree of the National Assembly, slavery was formally abolished throughout *all* the French colonies.

Since that time, Hayti has continued an independent nation, perfectly inoffensive in all its foreign relations; and its entire sovereignty is at present fully acknowledged by both France and England, and undisputed by any power on earth.

It is now important to inquire, what has been the conduct of the United States towards this heroic republic?

Twelve years after slavery had been abolished by a decree of the French Government; after the expulsion of the armies of England and France; when for three years not a hostile foot had pressed the soil of Hayti; when a regularly organized government was in full operation; and without one solitary cause of complaint against the new State, the American Congress passed an act, (28th Feb. 1806,) "to suspend the commercial intercourse between the United States and certain parts of the island of St. Domingo." These certain parts were defined in the act, to be such parts as were *not* "in the possession and under the acknowledgement of France;" and of course included the whole island. As there was at this time no war in *fact*, between Hayti and France, and the latter was prevented by the naval superiority of England, and her own continental wars, from sending a single soldier to Hayti; the sole object of this act, was to distress and harrass the Haytians by depriving them of the bread-stuffs and other necessities they were accustomed to receive from this country. It was a piece of wanton cruelty, unrequired by the obligations of neutrality; and demanded by France in a tone of arrogance, which would have secured its rejection had not the intended victims been *black*. Bonaparte, irritated by the loss of his army, and the defeat of his designs upon Hayti, resolved to starve, if possible, a people whom he could not conquer; and he found in the Federal Government, a willing instrument of his vengeance. His Minister at Washington, in a letter to the Secretary of State, demanded an immediate cessation of the commerce between the citizens of the United States and "the rebels of St. Domingo—that race of African slaves, the reproach and the refuse of nature;" and he enforced his demand with the information;—"The Emperor and King, my master, expects from the dignity and candor of the Government of the Union, that an end be put to it promptly."\* The letter was written in January; and in February the act required was passed, and continued in force for two years.

The invitation to the United States to send ministers to the Congress of Panama, has been already mentioned. In

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\* American State papers. 5th vol. p. 154.



the document conveying the invitation, it was remarked: "On what basis the relations of Hayti, and other parts of our hemisphere, that shall hereafter be in like circumstances, are to be placed, is a question simple at first view, but attended with serious difficulties when closely examined. These arise from the different manner of regarding Africans, and from their different rights in Hayti, the United States, and in the American States. This question will be determined at the Isthmus."\*

The invitation was accepted, and the instructions of our ministers contained the following:—"Under the actual circumstances of Hayti, the President does not think that it would be proper at this time to recognize it as a new State."† This, be it remembered, was just a quarter of a century since the Haytians had declared and maintained their independence, and at a moment when they were enjoying the blessings and exercising the prerogatives of an independent State, and at peace with all the world. And what motive prompted the United States thus to exert its influence to prevent the Congress of Panama from recognizing Hayti "as a new State?"—none other than the apprehension that the admission of a palpable truth, the independence of a black Republic, would prove dangerous to the perpetuity of American slavery. Is this slander? Let the members of Congress speak for themselves. The following sentiments were elicited in the debate on the Panama mission.

Mr. BERRIEN of Georgia:—"Consistently with our own safety, can the people of the South *permit* the intercourse which would result from the establishing relations of any sort with Hayti? Is the emancipated slave, his hands *yet* reeking" (thirty-two years after slavery had been abolished by the French Government) "in the blood of his murdered master, to be admitted into their ports, to spread the doctrines of insurrection, and to strengthen and invigorate them, by exhibiting in his own person an example of successful revolt? Gentlemen must be sensible—this cannot be. The great principle of self-preservation will be arrayed against it. I have been educated in sentiments of habitual reverence for the Constitution of the United States: I have been taught to consider the union of these States as essential to their safety. The feeling is nowhere more universal or more strong than among the people of the South. But they have

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\* Senate Documents, 1st Sess. 19 Cong. vol. III. † Letter of Mr. Clay, Secretary of State, 8th May, 1826.

a *stronger* feeling—need I name it? Is there any one who hears and does not understand me? Let me implore gentlemen not to call that feeling into *action* by this disastrous policy.” In plain English, the slaveholders love slavery more than they do the Union, and would sacrifice the last, rather than acknowledge as free, a people who had once been slaves.

Mr. BENTON of Missouri :—“ The peace of eleven States in this Union will not permit the fruits of a successful negro insurrection to be exhibited among them ;—it will not permit the fact to be seen and told, that for the murder of their masters and mistresses they are to find friends among the white people of the United States.”

Mr. HAMILTON of South Carolina :—“ It is proper that on this occasion I should speak with candor and without reserve : that I should avow what I believe to be the sentiments of the southern people on this question, and this is that *Haytian independence is not to be tolerated in any form.* \* \* \* \* A people will not stop to discuss the nice metaphysics of a *federative* system, when havoc and destruction menace them in their doors.”

Mr. HAYNE of South Carolina :—“ With nothing connected with slavery can we consent to treat with other nations ; and least of all ought we to touch the question of the independence of Hayti in conjunction with the Revolutionary Governments whose own *history* affords an example scarcely less fatal to *our* repose. These governments have proclaimed principles of liberty and equality, and have marched to victory under the banner of universal emancipation. You find men of color at the head of their armies, in the Legislative halls, and in the Executive departments. \* \* \* \* Our policy with regard to Hayti is plain ; we NEVER can acknowledge her independence. \* \* \* \* Let our Government direct all our Ministers in South America and Mexico, to PROTEST against the independence of Hayti.”

Gentlemen when they talk in a passion, rarely talk wisely or consistently. Mr. Hayne insists that we cannot *touch* the question of the independence of Hayti in conjunction with the American Revolutionary Governments ; and yet in the next breath, he is for opening negotiations with *all* these governments on this very subject. Almost every slaveholder assures us that the slaves, if emancipated, could not take care of themselves ; and yet Mr. Hayne proclaims the important fact, that the armies of these same governments have “ marched to victory ” with colored men at their head ; and

that colored men are found in their Legislative halls, and Executive departments!

Mr. JOHNSON of Louisiana:—"It may be proper to express to the South American States the unalterable opinion entertained here in regard to intercourse with them. The unadvised recognition of that island, (Hayti) and the public reception of their Ministers, will nearly sever our diplomatic intercourse, and bring about a separation and alienation injurious to both. I deem it of the highest concern to the political connection of these countries, to *remonstrate* against a measure so justly offensive to us, and to make that remonstrance EFFECTUAL."—*Congressional Debates*, Vol. II.

Thus the gentleman from Louisiana looked upon the recognition of Hayti by other and independent States, as a measure so offensive to us, as to afford us ground for quarrelling with them.

We will now advance twelve years in our history, and see if the lapse of time has softened the hatred of our rulers to Hayti. On the 17th December, 1838, a petition was presented to the House of Representatives, praying for the establishment of the usual international relations with that republic. No sooner was the purport of the petition announced, than vehement objections were made to it, and no less than thirty-two members had the hardihood to vote against even its reception. They were, however, in the minority; and on a motion being made to refer it to the Committee on Foreign Relations, the Chairman of that committee, himself a slaveholder, advocated the reference, as the best way of stifling the discussion, observing that "several similar memorials had been sent there the last session, which had never been reported on. This would take a similar course; *it would never be heard of again.*" With this intimation the petition was referred. A motion was then made to instruct the committee to report on the petition: but, to stop the discussion, the previous question was moved, and the motion denied by a great majority. A few extracts from the speeches delivered on this occasion may be useful, as showing the temper and logic displayed by the southern members.

Mr. LEGARE of South Carolina: "It (the petition) originates in a design to revolutionize the South and convulse the Union, and ought therefore to be rejected with reprobation. As sure as you live, sir, if this course is permitted to go on, the sun of this Union will go down—it will go down in BLOOD—and go down to rise no more. I will vote un-

hesitatingly against nefarious designs like these. They are treason,—yes sir, I pronounce the authors of such things traitors—traitors not to their country only, but to the WHOLE HUMAN RACE.”

Mr. WISE of Virginia : “ We are called to recognize the insurrectionists who rose on their French masters. A large portion of those now in power in this black republic, are slaves who cut their master’s throats. Christophe himself was an insurrectionist and a revolutionist. Their Government has the stamp of such an origin. And will any gentleman tell me now, that slaves, aided by an English army, (and it is consolatory to think, when we are threatened by abolitionists with having our throats cut at the South, that these slaves in St. Domingo, though ten to one in number, never could have succeeded in insurrection but for the aid of the British army,) ought to be recognized by this Government, and that their being such is no argument against it ? No, it is the abolition spirit alone which would have us say to these men, whose hands are yet red with their master’s blood : ‘ You shall be recognized as freemen ; we wish to establish international relations with you.’ Never will I—never will my constituents be forced into this. This is the only body of men who have emancipated themselves by butchering their masters. They have long been free, I admit ; yet, if they had been free for *centuries*,—if Time himself should confront me, and shake his hoary locks at my opposition,—I should say to him, I owe more to my constituents—to the quiet of my people—than I owe or can owe to mouldy prescriptions, however ancient.”

The consolation enjoyed by this gentleman, from the conviction that the Haytians are indebted to a British army for their liberty, is not a little ludicrous. There has never been but one British army in Hayti, and that was sent for the purpose, not of emancipation, but of conquest ; and instead of aiding the blacks, it was joined by two thousand of the planters, who looked to it as the means by which they were to recover their authority over their former slaves. Yet this army, thus aided, found itself vanquished by the despised blacks ; and in May, 1798, under Brigadier General Maitland, capitulated to Toussaint, the black General. The history of St. Domingo affords much and valuable instruction to slaveholders, but certainly very little *consolation*.

It may not be uninteresting to state a few facts relative to the present condition of a republic which so powerfully excites the apprehensions of southern gentlemen, and to the



magnitude of the commerce which our northern politicians are willing to sacrifice for southern votes.

The advocates of slavery are fond of representing the Haytians as a horde of barbarians. We therefore give the following evidence, published by the British Parliament, and taken before one of its committees.

*Evidence of Vice Admiral, the Hon. Charles Fleming, Member of Parliament*:—"He could not speak positively of the increase of the Haytian population since 1804, but believed it had *trebled* since that time.\* They now feed themselves, and they *export* provisions which neither the French nor the Spaniards had ever done before. He saw a sugar estate near Cape Haytian, General Boulon's, extremely well cultivated and in beautiful order. A new plantation was forming on the opposite side of the road. Their victuals were very superior to those in Jamaica, consisting chiefly of meat—cattle being very cheap. He saw no marks of destitution any where. The country seemed improving, and trade increasing. The estate he visited near the Cape was large; it was calculated to make 300 hogshead of sugar. It was as beautifully laid out and as well managed as any estate he had seen in the West Indies. His official correspondence as Admiral, with the Haytian Government, made him attribute much efficiency to it, and it bore strong marks of civilization. There was a better police in Hayti than in the new South American States; the communication was more rapid; the roads much better. One had been cut from Port-au-Prince to Cape Haytian that would do honor to any country. A regular port was established. The government is one quite worthy of a civilized people."

In 1831, the imports into France from Hayti exceeded in value the imports from Sweden, Denmark, the Hanseatic Towns, Holland, Austria, Portugal, the French West Indies, or China.—*McCulloch's Dictionary of Commerce*, p. 637.

In 1833, the imports from Hayti into the United States exceeded in value our imports from Prussia, Sweden and Norway, Denmark and the Danish West Indies, Ireland and Scotland, Holland, Belgium, Dutch West Indies, British West Indies, Spain, Portugal, all Italy, Turkey and the Levant, or any one of the South American republics. And what protection is afforded to this commerce by the Federal Government—a Government willing to negotiate in every court of Europe for compensation for shipwrecked or fugitive

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\* By the census of 1824, the population was stated at 933,000. It is unquestionably upwards of a million at the present time.

negroes? "Our trade with Hayti is embarrassed; it is subjected to severe discriminating duties. We are probably the least favored of any people in the ports of the republic. Tonnage duties and vexatious port charges discourage and oppress our commerce there. I am assured that, but for these impediments, the trade from this country with that would be greatly extended. The acknowledged cause of all the embarrassments to that trade is found in the fact, that our Government refuses to recognize the Government of Hayti.—We stand aloof, as if they were a lawless tribe of savages. While all other powers have long since acknowledged them as an independent Sovereignty, we refuse to recognize them. Others profit by their commerce at our expense. We have no representative at the island of any grade, nor have they a public officer accredited here. No commercial relation, therefore, exists between the two Governments."—*Speech of Mr. Grennell, in H. of R., 18th December, 1838.*

If the treatment which Hayti has received from the United States, evinces the hatred of our republic to emancipation, we have a proof no less strong of its attachment to slavery, in

#### THE CONDUCT OF THE FEDERAL GOVERNMENT TOWARDS TEXAS.

In 1829, the Republic of Mexico having achieved her own independence, gave liberty to every slave within her limits. This State had a vast and fertile, but thinly peopled territory, adjacent to Louisiana. In this territory within a few years past, a large number of adventurers from the United States, had taken up their residence with the consent, and under the jurisdiction of Mexico. These adventurers sighed for the sweets of slavery, which they had enjoyed in their native land; and as the soil was adapted to the cotton cultivation, they became restless under the requirement of the Government, either to till it themselves, or honestly to pay those who tilled it for them. Hence, they conceived the idea of transferring their allegiance from Mexico, to another republic less tenacious of human rights. Nor was a large portion of that other republic less anxious to acquire a new market for slaves, and a new territory which would give to the slaveholding interest a preponderance in the national councils. Judge Upshur in 1829, remarked in the Virginia Convention: "If Texas should be obtained, which he strongly desired, it would raise the price of slaves, and be a great advantage to the slaveholders in that State;" and in 1832, Mr. Gholston declared in the Virginia Legislature, that "he

believed the acquisition of Texas would raise the price of slaves fifty per cent. at least." Virginia, it will be recollected, is a *breeding* State, and therefore interested in the opening of a new market. The planting States have no wish to raise the *price* of slaves, but are deeply concerned for the perpetuity of the system. One of their distinguished politicians published a series of essays on the policy of annexing Texas to the United States; a territory, which he contended was large enough to be divided into *nine* slave States; which would counterbalance the increasing number of free States at the North.

The Federal Government ever ready to promote the slaveholding interest, commenced a negotiation for the purchase of Texas, and offered *four millions of dollars* for the territory.\* The offer was promptly rejected, and other means were resorted to.

Texan land companies were formed at the North, for the sale of extensive tracts of land, said to have been obtained by grants, from the Mexican Government. Capitalists, politicians, and demagogues participated in these splendid schemes of speculation, and became vociferous in the cause of Texan liberty. At the same time, crowds of emigrants repaired to the territory, many carrying their slaves with them. At last, these men feeling themselves strong enough, raised the standard of rebellion in September, 1835, and on the 2d of the succeeding March, issued their declaration of independence. The Mexicans of course, endeavored to quell the insurrection; but, although nominally fighting with their own subjects, they were in fact contending against *an invasion from the United States*. The truth of this assertion will scarcely be questioned: yet it may be well to support it by a few facts. The following extracts from the journals of the day, will, it is presumed, be sufficient.

"*Who will go to Texas?*—Major J. W. Harvey of Lincolnton, has been authorized by me, with the consent of Major-General Hunt, an agent in the western counties of North Carolina, to receive and enrol volunteer emigrants to Texas; and will conduct such as may wish to emigrate to that Republic, about the 1st of October next, at the expense of the Republic of Texas. J. P. HENDERSON,

*Brig. Gen. of the Texan Army."*

*North Carolina Paper.*

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\* See instructions from Mr. Van Buren, Secretary of State, to Mr. Poinsett, Minister to Mexico, August 25, 1829.

"*Three hundred Men for Texas.*—Gen. Dunlap of Tennessee, is about to proceed to Texas, with the above number of men. The whole corps are now at Memphis. Every man is completely armed, the corps having been originally raised for the Florida war. This force we have no doubt, will be able to carry every thing before it."—*Vicksburg (Miss.) Register.*

"Since early last winter, a series of transactions have passed before us in open day, the undisguised object of which has been to enlist troops, and procure arms to aid the Texans in their war with Mexico. Troops have been enlisted—arms have been obtained. Their military parades have been exhibited in our streets—they have embarked at our wharf—have proceeded to Texas—united themselves with her troops, and joined with them in war against Mexico. Is it not a fact that every stand of public arms deposited at this place by the State, have been sent to Texas, with the connivance of those who had charge of them?"—*Cincinnati Gaz.*

Meetings were held in various places, and speeches made, and resolutions passed in favor of the Texan *patriots*.

At a meeting in Cincinnati, of the friends of Texas, it was resolved: "That no law either human or divine, except such as are formed by tyrants for their sole benefit, forbids our assisting the Texans; and such law, if any exists, we do not as Americans choose to obey."

The Federal Government far from taking any efficient measures to arrest this invasion of a friendly and neighboring State, sent an imposing force under Gen. Gaines, *into the Mexican territory*, under the pretence of protecting the frontiers! With what result is shown by the following article.

*From the Pensacola Gazette.*

"About the middle of last month, Gen. Gaines sent an officer of the United States army into Texas, to reclaim some deserters. He found them already enlisted in the Texan service to the number of *two hundred*. They still wore the uniform of our army, but refused of course to return. The commander of the Texan army was applied to, to enforce their return, but his only reply was, that the soldiers might go, but that he had no authority to send them back. This is a new view of our *Texan relations*."

The adventurers in Texas had no sooner set up themselves, than they adopted a constitution, in which they aimed,—first, to secure themselves and their children forever, the blessings of slavery; and secondly, to acquire the aid and



protection of the United States. The first object was to be attained by a constitutional prohibition of both private and legislative emancipation; and by making it a fundamental law of the Republic, that no free black or mulatto person should reside within its boundaries; and the second object, by giving to the United States in perpetuity, a monopoly of the slave market in Texas,—the importation of slaves from any other country, being absolutely prohibited, thus promising to realize the golden visions of the Virginia breeders.

A feverish impatience now pervaded the southern States for the acknowledgement of Texan independence;—an impatience in which the northern speculators fully participated. Acknowledgement it was seen, must precede annexation, since the latter could only be effected by a treaty with Texas as an independent power. Still policy required that this measure should be cautiously managed, lest the North should become alarmed at this scheme for vesting the whole political power of the Union in the hands of the slaveholders, and the northern members of Congress be found for once refractory.

Congress met in December, 1836, and on the 22d of the same month, President Jackson sent them a special message in relation to Texas. He remarked: “Prudence seems to dictate that we should still stand aloof, and maintain our present attitude, if not till Mexico, or one of the great foreign powers shall recognize the independence of the new Government, at least until *the lapse of time, or the course of events shall have proved beyond all cavil or dispute, the ability of that country to maintain their separate sovereignty, and to uphold the Government constituted by them.*”

This message dissipated all apprehensions on the part of the friends of freedom, of a speedy acknowledgement, and relieved Congress from the remonstrances and petitions with which their tables would otherwise have been loaded.

It was obvious, however, that if we could contrive to become embroiled in a war with Mexico, we might then seize upon Texas, and hold it by right of conquest, without any violation of our neutral obligations; and that by this process, the annexation might be effected with even more facility than by a compact with Texas as an independent power. Accordingly about two weeks after the late message, the President sent another to Congress on our grievances against Mexico—grievances about which the people at large knew and cared nothing. This message recommended the passage of a law authorizing the President to employ a naval force

against Mexico if she refused "to come to an amicable adjustment of the matters in controversy between us, upon another demand thereof, made *from on board one of our vessels of war on the coast of Mexico.*" This proposition was coldly received, neither Congress nor the nation seeming to approve of such a novel and summary way of declaring war; and no one having the slightest desire for war, except those who were anxious for the annexation. It being found that a war could not be had, another game was played. The session was to close on the 3d March. The strongest opposition to Texas was to be apprehended in the Lower House. Four days before the termination of the session, a motion was there made to add a clause to the appropriation bill, making provision for the salary of a diplomatic agent to Texas. There was no time for long speeches, and the motion was adopted with the amendment "to be sent by the President whenever he shall receive satisfactory evidence that Texas is an independent power, and shall see fit to open a diplomatic intercourse with her." The late message proved that the President had not yet received "the satisfactory evidence," and anticipated it only from the action of the great *foreign* powers, or "the lapse of time." Little hesitation therefore was felt in leaving the subject under the control of the Executive. The House of Representatives, in which there was a majority of northern members, having been thus managed, and a salary secured for a Minister to Texas; the veil was thrown aside in the Senate, and two days before the end of the session, it was "Resolved, that the State of Texas, having established and maintained an independent government, capable of performing those duties, foreign and domestic, which appertain to independent governments, and it appearing that there is no longer any reasonable prospect of the successful termination of the war by Mexico against said State, it is expedient and proper, and in conformity with the laws of nations and the precedents of this Government in like cases, that the independent political existence of said State, be acknowledged by the Government of the United States."

As the whole tenor of this resolution was in direct opposition to the message of the 22d December, and as nothing had occurred since that date to weaken the positions assumed in the message, one of the Senators in opposing the resolution, very naturally alluded to the views entertained by the President. On this, Mr. Walker, a Senator from Mississippi, rose in his place and declared, that "*he had it from the Pre-*

*sident's own lips, that if he were a Senator, he would vote for this resolution ! !"*

At eleven o'clock of the night of the 3d March, an hour before his term of office expired, and just as the Senate was about adjourning, the President sent them the nomination of a Minister to Texas.

The conduct of the Federal Government towards Texas and Hayti, places in a strong light the influence of slavery on our national councils. The latter State has been independent both in name and in fact for thirty-seven years, yet we still refuse to recognize her. Twelve months after Texas declared her independence, she was received by us into the family of nations, and honored by an interchange of diplomatic agents. For thirty-five years, the soil of Hayti has not been trodden by an invader ; only *ten* months before the acknowledgement of Texas, a Mexican army was carrying terror and destruction through its territory. That army had indeed been defeated, but another was preparing to renew the contest. Hayti had long been at peace with all the world. Mexico claimed Texas as its own, and solemnly avowed its determination to chastise and suppress the revolt. Hayti achieved her independence after a long and arduous struggle with powerful armies, and has a population of a million to maintain it. Texas, when acknowledged, could appeal only to the fortunate result of a single battle as evidence of her national power, while she had no more than 60,000 inhabitants to contend against the eight millions of Mexico. With Hayti, we had a large and valuable commerce, while our commerce with Texas was only in expectancy. Yet has slavery estranged our Government from the one nation, and led it to welcome to its embrace another, incomparably inferior in political strength and moral worth.

The indecent haste with which Texas was acknowledged, and the trickery by which the acknowledgement was effected, were prompted by the desire of annexation. A southern journal speaks thus frankly on the subject. " Does any sober observer contend—can he in the face of facts, that Texas has substantially, according to the usages of nations, accomplished her independence ? Was there not an even chance, to put the matter on the most favorable footing, that the victory of Jacinto might this campaign be reversed ? But natural *feeling* has outstripped the prudence of our Government, usually discreet and judicious, and *social sympathy* has done what political precedent, and possibly expediency, might not have sanctioned. The debate in the British Parliament



shows how well *State papers* and official ceremonies" (viz. the President's message,) "may delude, or seem to delude foreign governments. While Lord Palmerston and O'Connell were defending our Government from any improper haste in acknowledging the independence of Texas, the deed is consummated!"—*The Port Gibson (Miss.) Southerner*.

The whole slave region, with scarcely an exception, demanded a union with the new State. "The very reasons," said the *Charleston Mercury*, "so intemperately urged by the North against it, that it will increase the political weight of the southern States, and perpetuate and extend the curse of slavery, are our best reasons for it."

The Legislatures of South Carolina, Mississippi, and Tennessee, all passed resolutions in favor of the annexation. Many individuals at the North had likewise a deep pecuniary interest in the question. They had speculated largely in Texas lands, but their title would be of but little value, so long as they depended on the faith of the lawless adventurers who possessed the country. Could that country be received into the Union, and subjected to the acts of Congress and the jurisdiction of the Supreme Court, their purchases might ensure to themselves or their families, princely estates. A writer in the *Salem Gazette*, (Mass.) probably a speculator, in vindicating the annexation, thus appealed to the avarice of New-England. "It is calculated that the value of one kind of property in the South, slaves, will be enhanced so much, that that portion of our country will realize one or two hundred millions of dollars; and the South cannot be enriched without benefiting the North—the money will naturally come here at last."

The people of Texas were no less desirous of annexation than southern slaveholders, or northern speculators. The plan of union was avowed from almost the very commencement of the rebellion. In August, 1836, S. F. Austin, in an address offering himself as a candidate for the Presidency, told the people: "I am in favor of the annexation, and will do all in my power to effect it with the least possible delay." W. H. Jack, a candidate for the legislature, declared: "I am decidedly and unequivocally in favor of annexing Texas to the United States." Gen. Houston, the Commander-in-chief, intimated that "the annexation was essential to the interests of the new country." The Texan Congress resolved, "that the President of the Republic of Texas be empowered and authorized to despatch a commissioner or commissioners to the United States of America, to obtain a ne-



gotiation of our independence, and enter into a treaty with that Government for a union on a footing with the original States." The first condition prescribed for this proposed union, was, "THE FREE AND UNMOLESTED AUTHORITY OVER THEIR SLAVE POPULATION."

On the 4th August, 1837, the negotiation was opened by the Texan Minister at Washington, by a proposition "to unite the two people under one and the same government." The acceptance of this proposition would of course have been equivalent to a declaration of war against Mexico; a responsibility which Mr. Van Buren did not see fit to assume, especially in the recess of Congress. He declined entering into the negotiation, on the grounds that the United States were at present, at peace with Mexico, and that that power had not acknowledged the independence of Texas. As this answer merely *postponed* the annexation on account of an obstacle easily removed, it was entirely satisfactory to the South, and the more so as the President's message to Congress on the 4th of the ensuing December, wore a very belligerent aspect towards Mexico.

This formal attempt at annexation roused the fears of the North, and innumerable remonstrances against the measure were presented to Congress. In the meantime Mexico, by proposing a submission of her differences with the United States to arbitration, removed all pretence for immediate war. Under these circumstances, the southern delegation in Congress thought it most prudent not to press the annexation. The Texans, moreover, finding themselves unmolested by Mexico, who had become involved in war with France; and observing the strong hostility manifested towards the measure in the United States, formally withdrew her application for admission into the Union. It is folly, however, to suppose that the project of annexation is abandoned either by the South or by Texas; nor does it need the gift of prophesy to foresee that the first favorable opportunity of making war upon Mexico, will be readily embraced by the Federal Government. Should such a war be effected, the dominion of the world may, perhaps, be extended from Maryland to Panama.

It may not be amiss here to compare the conduct of the Federal Government towards the Texan and the Canadian rebels. The first were slaveholders re-establishing slavery on a soil from which it had been banished; and they enjoyed from the first the sympathy of our Government, who took care to interpose no real obstacle to an invasion on their be-

half from the United States ; while for the purpose of aiding them it labored to excite an immediate war with Mexico. The Canadian rebels were professedly fighting for liberty, and should they succeed, there was no probability that negro slavery would crown their triumph. They, like the Texans, looked to us for aid ; but the President, *now* alive to the obligations of neutrality, and finding the existing laws insufficient to enforce them, applied to Congress and received additional powers. Troops were sent to the frontiers, not to swell by desertion the ranks of the rebels, but in good faith, forcibly to prevent American citizens from abetting the revolt. A war with Mexico was desired by the slaveholders, and the President was for *negotiating on board an armed vessel*. A war with Great Britain, emphatically an anti-slavery nation, is now viewed with horror and dismay by the whole South,\* and the Executive has sedulously endeavored to avoid it.

We have now presented numerous instances of the action of the Federal Government in behalf of slavery ; but our task is not completed. We are still to view that Government, which, in the language of the Constitution, was established "to secure the blessings of liberty to ourselves and our posterity ;" assailing the constitutional rights of the citizen, in order to rivet the fetters of the slave ; striving to extinguish the freedom of the press, the freedom of debate, and the right of petition, to perpetuate property in human flesh. These, we are sensible, are strong assertions ; we solicit attention to the facts on which they are founded, and first to

#### THE ATTEMPT OF THE FEDERAL GOVERNMENT TO ESTABLISH A CENSORSHIP OF THE PRESS.

In the summer of 1835, the Anti-slavery Society in New-York, directed their publisher to forward a number of their periodical papers, containing facts and disquisitions on the subject of slavery, to various southern gentlemen of distinction, in the hope of exciting by this means, a spirit of inquiry among persons of influence and character. But it was precisely such a spirit of inquiry, that the advocates of perpetual bondage feared might be fatal to their favorite institution. Hence they affected to believe that the papers sent to the *masters*, were intended to excite the slaves to insurrection, and they succeeded in maddening the populace to fury.

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\* A distinguished southern Senator, speaking of the importance of preserving our neutrality on the Canada frontier, declared that in his opinion "a war with England would be the heaviest calamity that could befall the country."

A mob broke into the Charleston Post-Office, and seizing a quantity of anti-slavery papers, burned them in the street. This outrage was virtually approved by the City Council; and at a public meeting, a committee of "gentlemen" was appointed to take charge of the northern mail on its arrival, accompany it to the Post-Office, and see that no paper advocating the rights of man, should be delivered to their owners. The Post-Master informed the head of the department, that under existing circumstances, he had determined to suppress all anti-slavery publications, and asked for instructions for the future. It should here be recollected that of all the political advisers of the President, Mr. Kendall, at this time acting as Post-Master General, was the most odious to the opposite party. He had been appointed during the recess of the Senate, and it was regarded as a matter of course, that on the meeting of that body, in which the opposition had a majority, his nomination would be rejected. The Constitution forbade a censorship of the press, and had the people been disposed to delegate so formidable a power, they certainly would not have vested it in the 10,000 deputies of the Post-Master General. The law moreover expressly required every Post-Master to deliver the papers received by him, to the persons to whom they were directed.

Such were the circumstances under which Mr. Kendall returned his famous answer. After stating that not having seen the papers in question, he could not judge of their character, but had been *informed* that they were incendiary, inflammatory, and insurrectionary, he added: "By no act or direction of mine, official or private, could I be induced to aid knowingly in giving circulation to papers of this description, directly or indirectly. We owe an obligation to the laws, but a higher one to the communities in which we live; and if the former be perverted to destroy the latter, *it is patriotism to disregard them*. Entertaining these views, I cannot sanction and will not condemn the step you have taken." This letter taught the Senate that the new officer was willing to conduct the Post-Office in a manner calculated to protect the "domestic institution" from the assaults of truth and argument, and his nomination was confirmed. Mr. Kendall was at the date of his letter, a member of the Cabinet, and it was understood that the novel, extraordinary, and dangerous doctrine of that letter received the sanction of the President.

On the opening of Congress, President Jackson in his message, recommended the "passing of such a law as will prohibit under severe penalties, the *circulation* in the south-



ern States through the mails, of incendiary publications *intended* to instigate the slaves to insurrection." The proposed law it seems, was not to prohibit the printing of certain papers, nor their committal to the mails in the northern States, but only their *circulation* in the slave region. Of course certain persons, Post-Masters we presume, were to be required under "heavy penalties," to stop these papers; and they were necessarily to be judges of the character of the papers, and of the intentions of their writers. From what code of despotism did our very democratic President derive his plan for destroying the efficiency of the Press? By a contemptible quibble, this plan was to evade the constitutional guarantee of the freedom of the press. It was not to interfere with the press—not at all—it was merely to prevent the circulation of its productions! The press was still to be free to pour forth its arguments against slavery, only "heavy penalties" were to prevent the people from reading them! The reason moreover assigned for this high-handed act of tyranny, was a most willful calumny. It was to prevent the circulation in the southern States of publications *intended* to excite the slaves to insurrection. Such a proposal from the first magistrate of the country to Congress, and following the affair at Charleston, and Mr. Kendall's letter, irresistibly fixes upon the members of the American Anti-slavery Society at New-York, the charge of sending papers into southern States for the purpose and with the desire of effecting the massacre of their fellow-citizens. If the President really believed that such was the object of the New-York abolitionists, and such the character of their publications, and if he thought it his official duty to bring the subject before Congress, he owed it to himself, to the country, to truth and to justice, to have submitted to Congress the *facts and documents*, on which he founded his proposed invasion of the constitutional rights of his fellow-citizens. But he cautiously avoided specifying a single fact, or quoting a single sentence in support of his tremendous accusation, or in justification of his most unwarrantable proposition; and when written to by the acting committee of the New-York Society for proof of his charge against them, he deemed it most prudent not to return an answer! Surely the burden of proof rests upon him, who in a solemn official address to the Legislature, holds up a portion of his fellow-citizens as miscreants engaged in plotting murder and insurrection; and urges the enactment of a law to counteract their execrable machinations.



It is often difficult to prove a negative ; but in this instance, the falsehood of the President's charge is amply demonstrated by an official document from the slaveholders themselves. We give this document, not to exculpate the members of the New-York Society from a calumny which their own characters abundantly refute, but to show in a strong light the unprincipled means to which the Federal Government is capable of resorting to uphold the "peculiar institution" of the South.

A Grand Jury in Alabama, conceived the bright idea, that the publication of tracts at the North against slavery might be arrested, by indicting the publishers as felons, and then demanding them from the Governors of their respective States as *fugitives* from southern justice. It was necessary, however, to specify in the indictment, the precise crime of which they had been guilty ; a necessity which the President regarded as not applicable to his message. We may well suppose therefore, that the Grand Jury would endeavor to secure the success of this, their first experiment, by selecting from the various publications, alluded to by the President and Mr. Kendall, as sent to the South for the purpose of exciting insurrection, the most insurrectionary, cut-throat passages, they could find. Behold the result.

"State of Alabama,        } Circuit Court, September  
Tuscaloosa County.       } Term, 1835.

"The Grand Jurors, \* \* \* \* upon their oath present, that Robert G. Williams, *late of said county*, being a wicked, malicious, seditious, and ill-disposed person, and being greatly disaffected to the laws and government of said State, and feloniously, wickedly, maliciously, and seditiously contriving, devising, and intending to produce *conspiracy, insurrection, and rebellion* among the slave population of said State, and to alienate and withdraw the affection, fidelity, and allegiance of said slaves from their masters and owners, on the tenth day of September, in the year of our Lord one thousand eight hundred and thirty-five, at the county aforesaid, feloniously, wickedly, maliciously, and seditiously did cause to be distributed, circulated, and published, a seditious paper called 'THE EMANCIPATOR,' in which paper is published according to the tenor and effect following, that is to say : 'God commands, and all nature cries out, that MAN should not be held as property. The system of making MEN property, has plunged 2,250,000 of our fellow-countrymen into the deepest physical and moral degradation, and they are every moment sinking deep-

er.' In open violation of the Act of the General Assembly in such case made and provided, to the evil and pernicious example of all others in like case offending, and against the peace and dignity of the State of Alabama."\*

In the Senate, the recommendation of the President was referred to a committee, who reported a bill prohibiting Post-Masters from delivering "any pamphlet, newspaper, handbill, or other printed paper, or pictorial representation, *touching the subject of slavery* in any State, in which their circulation is prohibited by law." The object of this bill was by means of federal legislation, to build around the slave States a rampart against the assaults of light and truth. Its absurdity was equalled only by its wickedness. Not a newspaper containing a debate in Congress, a report from a committee, a message from the President, a letter from the West Indies, "*touching the subject of slavery*," could be legally delivered from a southern Post-Office; and thousands of Post-Masters were to be employed in opening envelopes, and poring over their contents, to catch a reference to the "domestic institution."

By this bill, the Federal Government virtually surrendered to the States, the freedom of the press, and nullified the guarantee of this inestimable privilege, given by our fathers in the Constitution to every citizen. This bill, moreover, prepared the way for the destruction of civil and religious liberty. If every paper *touching the subject of slavery* might be suppressed, then the same fate might just as constitutionally be awarded to every paper *touching the conduct of the administration, or the doctrine of the Trinity*. It established a censorship of the press on one subject, which might afterwards be extended to others. Yet this bill, absurd and unconstitutional as it was, went through its regular stages with little opposition, till the important question was taken on its engrossment;—the vote stood 18 to 18. The casting vote was now required from Mr. Van Buren, who, as Vice President, occupied the chair. He gave it for the slaveholders, and received from them at the ensuing election, sixty-one electoral votes, by means of which, he became President of the United States.† On the final question, the

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\*Another count was added for distributing "The Emancipator," but without giving any extracts. It is scarcely necessary to add, that Williams had never been in Alabama. Yet on this indictment, he was demanded of the New-York Executive as a fugitive felon, by the Governor of Alabama.

† The two Senators from New-York, Messrs. Wright and Tallmadge, political friends of Mr. Van Buren, supported the bill. It is due to justice to mention, that the bill was finally lost by the votes of several *southern* Senators.

bill was rejected, and this attempt to trammel the press for the protection of slavery, defeated. A very different result however, has attended

#### THE EFFORT OF THE FEDERAL GOVERNMENT TO NULLIFY THE RIGHT OF PETITION AND THE FREEDOM OF DEBATE.

For thirty years past, petitions have been presented to Congress for the abolition of slavery in the District of Columbia, and the national territories; and until latterly, were received and treated like other petitions. But having within a few years prodigiously increased in number, and some northern members having shown a disposition to advocate their prayer, a most extraordinary course has been pursued in relation to them. The reason of this course is explained by the following passage from a speech by Mr. Strange, a Senator from North Carolina. "Every agitation of this subject (slavery,) weakens the moral force in our favor; and breaks down the moral barriers which now serve to protect and secure us. *We have every thing to lose, and nothing to gain by agitation and discussion.*"

The frankness of this confession is as remarkable as its truth is unquestionable; and it shows us why the advocates of slavery instead of meeting their opponents in argument, have sought to silence them by brute force, and penal enactments.

One of the most unequivocal and undoubted of all constitutional rights is that of petition, and it is moreover, expressly guaranteed by the Constitution. But this right has been most audaciously nullified by both branches of the National Legislature. The Senate have not, it is true, avowedly refused to receive anti-slavery petitions, but they have adopted a course which answers the same purpose. The practice for some years past has been to lay the question of reception on the table without deciding it, and the petition not being in fact received, cannot be discussed, nor any measure respecting it taken. This course is no less at variance with the constitutional rights of the petitioners, than it is with those of the members of the Senate. The rights of petition and freedom of debate are both nullities, if the body to which a prayer is addressed, is prohibited from listening to it, and the individual members are prohibited from noticing it.—Would it be no violation of the Constitution were the Senate to order that every petition, "touching the subject of slavery," should be delivered to their doorkeeper, to be committed by him to the flames? And yet in what particular, are

the rights of the petitioners more respected by the practice we have mentioned? The petitions are not indeed burned, but they are left in the pockets of those to whom they were entrusted; and not being received, the Senate is supposed to be ignorant of their contents, and of course no member is permitted to discuss their merits, or to propose any measure founded upon them. Let us now turn to what is regarded as the *popular branch*,—the House of Representatives,—intended to be the special guardian of the liberties of the PEOPLE, as the Senate is of the rights of the States.

In May, 1836, a committee reported to the House, a resolution prefaced with this extraordinary avowal: "Whereas it is extremely important and desirable, that the AGITATION on this subject (slavery) should be finally arrested for the purpose of restoring *tranquility* to the public mind, your committee respectfully recommend the following resolution."

Here then is an acknowledged, unblushing interference by the Federal Government, in behalf of slavery; an avowed interference to arrest that agitation, which we are assured by Mr. Strange, "breaks down the moral barriers," which serve to protect and secure a system of iniquitous cruelty and oppression. To arrest this agitation, the committee did not scruple to recommend a measure, breaking down the constitutional barriers erected to protect and secure the rights and liberties of the people of the United States. The resolution reported by the committee, was adopted by the House, on the 26th of May, 1836, and is in these words:

"*Resolved*, That all petitions, memorials, resolutions, and propositions relating *in any way, or to any extent* whatever, to the subject of slavery, shall without being either printed or referred, be laid on the table, and that no farther action whatever shall be had thereon." Ayes 117—Nays 68.

It is worthy of remark, that of the ayes, no less than 62 were from the free States! The advocates of this resolution, conscious that it could bear discussion as little as slavery itself, caused it to be adopted through the operation of the previous question, by a *silent* vote.

We have exhibited the character of slavery and the slave trade at the seat of the Federal Government, and have shown that Congress is the local legislature of the District of Columbia, having "exclusive jurisdiction over it in all cases whatever." Now one of the peculiar atrocities of this resolution is, that it wrests from every member of the House, his constitutional right to *propose* such measures for the government of the District as justice and humanity may require.



Slaves might be burned alive in the streets of the Capital; the slavers might be crowded to suffocation with human victims; every conceivable cruelty might be practised, and no one member of the local legislature could be permitted to propose even a committee of inquiry, "relating in any way, or to any extent whatever, to the subject of slavery!"

The fact that 62 northern members on this occasion, arrayed themselves on the side of the slaveholders, affords a melancholy and alarming proof of the corrupting influence which slavery is exerting on the morality and patriotism of the free States.

This foolish and wicked expedient to "restore tranquility" to the people, by trampling on their rights and gagging their representatives, failed of success. The petitioners at this session were 34,000,—at the next the number was swelled to ONE HUNDRED AND TEN THOUSAND! and the gag was renewed. During the session of 1837-8, the number rose to THREE HUNDRED THOUSAND. Early in the last mentioned session, a member from Vermont, presented a petition for the abolition of slavery in the District of Columbia, and took the liberty to offer some remarks on the subject of slavery. This attempt to break down "the moral barriers," threw the southern members into great trepidation, and the scene which ensued, illustrates the system of *intimidation*, to which we have already adverted. The Speaker was interrupted by a gentleman from Virginia, calling aloud, and asking his colleagues to retire with him from the hall;—another from Georgia exclaimed, that, he hoped the whole southern delegation would do the same;—a third from South Carolina declared, that all the representatives from that State 'had already signed an agreement.' The House adjourned, and a southern member invited the gentlemen from the slaveholding States to meet immediately in an adjoining room. The meeting was held, but its proceedings were not made public. The result, however, was manifest in the introduction next morning, of another gag resolution, directing all memorials, petitions, and papers touching the abolition of slavery in the national territories, and of the American slave trade, to be laid on the table, without being printed, read, *debated*, or referred, and that no farther action should be had thereon. Through the acquiescence of northern members, it was passed by a *silent vote*.

At the beginning of the next session, a meeting of the administration members was held, at which it was determined to renew the gag; and as a proof of the devotion of the dem-

ocratic party at the North to the cause of slavery, it was arranged that now, for the first time, the odious measure should be proposed by a northern man: nay, not merely a northern man, but a native of New-England—a representative from New-Hampshire. The resolution was accordingly introduced, and was passed on the 12th December, 1838, and has given notoriety to the name of *Atherton*.

Thus we see a persevering, systematic effort on the part of Congress to protect slavery by suppressing debate, and throwing contempt upon the petitions of hundreds of thousands of American citizens. That this should be done by slaveholders was perhaps to have been expected; but that they should be aided in such a desperate assault upon constitutional liberty by northern men, for the paltry consideration of southern votes and southern trade, is mortifying and alarming. The meeting of extremes is a trite illustration of human inconsistency. If, in Dr. Johnson's time, the loudest yelps for liberty were heard from the drivers of slaves; the loudest yelps in the northern States against aristocracy, chartered monopolies and oppression of the poor, are now heard from men who have labored to perpetuate the bondage of millions, by gag laws, and restrictions on the freedom of speech and the press. These men are acting from party views, and are rushing to battle under the war cry of "VAN BUREN AND SLAVERY," in hopes, through southern auxiliaries, of enjoying the spoils of victory. Others again, without the slightest sympathy in the political principles of these men, and with their ears stuffed, and their hearts padded with cotton, are co-operating with them in behalf of slavery, from their love of southern trade.\*

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\* The following are strong and amusing instances of the meeting of extremes. In the Spring of 1837, the *whig* merchants of New-York, sent a deputation to Washington to request the President to adopt certain measures to relieve the commercial embarrassments of the country. The request was declined, and a great meeting was convened to receive the report of the deputation. The report which was adopted by the meeting, recommended efforts to displace Mr. Van Buren, and as one means of effecting this object, exhorted the merchants to "appeal to our brethren of the South for their generous co-operation; and *promise* them that those who believe the possession of property of *any kind*" (not excepting men, women, and children,) "is an evidence of merit, will be the last to interfere with the rights of property of *any kind*; discourage any effort to awaken an excitement, the bare idea of which *should make every husband and father shudder with horror*." In plain English, if the slaveholders would make common cause with the New-York merchants against Mr. Van Buren, they in return would make common cause with the slaveholders against the abolitionists. But democrats know the value of southern votes quite as well as the whigs. Accordingly we find in the *Washington Globe* of Feb. 9, 1839, a speech *intended* to have been delivered, but prevented by the gag resolution, by Mr. Eli Moore, a double-refined democrat, President of the New-York Trades' Union, and representative from that city in Congress. This gentleman tells us "the wild, enthusiastic, and impetuous spirit which kindled the fires of Smithfield, and strewed the plains of Palestine with the corpses of the crusaders, stands with lighted and uplifted torch hard by the side of abolitionism, ready to spread conflagration and death around the land"—he declares

We will here close our protracted investigation with a brief

# RECAPITULATION OF THE ACTION OF THE FEDERAL GOVERNMENT IN BEHALF OF SLAVERY.

This action we have found exhibited (omitting constitutional provisions) in

1. Its effort to degrade the free people of color by excluding them from the militia; prohibiting them from driving a mail waggon—denying naturalization to foreigners of their complexion—subjecting them to odious disqualifications and restrictions in the City of Washington; and above all in permitting them without trial, at the discretion of the marshal, to be sold as *slaves* to pay their JAIL FEES.

2. In its tolerance of slavery in territories under its exclusive jurisdiction.

3. In its arbitrary, unconstitutional, and wicked laws for the arrest of fugitive slaves.

4. In its negotiation with Great Britain and Mexico for the surrender of fugitive slaves.

5. In its invasion of Florida, in pursuit of fugitive slaves.

6. In its negotiations with Great Britain, for compensation for slaves who had taken refuge on board British ships of war.

7. In its negotiation with Great Britain, for compensation for slaves, ship-wrecked in the West Indies.

8. In its tolerance, protection, and regulation of the American slave trade.

9. In its duplicity, with regard to the abolition of the African slave trade.

10. In its efforts to prevent the abolition of slavery in Cuba.

11. In its conduct towards Hayti.

12. In its conduct towards Texas.

13. In its attempt to establish a censorship of the press.

14. In its invasion of the right of petition, and the freedom of debate.

Such has been the action in behalf of human bondage, of a Government which, in the language of the Constitution,

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that "so long as the DEMOCRATIC or State Rights' party shall maintain the ascendancy, the efforts of the abolitionists will be comparatively innocuous:" and he announces what will be no less news to the New-York merchants, than it is to abolitionists, that "the Federal or NATIONAL BANK PARTY, believe the Federal Legislature not only have the power to abolish slavery in the District of Columbia, *but also in the States.*"

From the opinions and motives we have ascribed to masses, we know there are many exceptions. No community can offer brighter examples of virtue and philanthropy than the merchants of New-York; and he who thinks that there are not among our ultra-democrats, men who conscientiously believe the principles they profess, and act in consistency with them, does not know them.

was formed to establish JUSTICE, and secure the blessings of LIBERTY.

And by whom are the men composing the Government which thus perverts the objects of its institution, invested with their power ? They are the agents, the mere instruments of the people of the United States—of the North and the East, as well as of the West and the South. This consideration calls us to consider

#### THE RESPONSIBILITY OF THE FREE STATES.

The advocates of slavery and the tools of party, are continually telling us, that "*the North has nothing to do with slavery.*" A volume might be filled with facts, proving the fallacy of this assertion. There is scarcely a family among us, that is not connected by the ties of friendship, kindred, or pecuniary interest, with the land of slaves. That land is endeared to us by a thousand recollections—with that land we have continual commercial, political, religious, and social intercourse. There in innumerable instances, are our personal friends, our brothers, our sons and our daughters.—How malignant and foolish then is the falsehood, that the thousands and tens of thousands of abolitionists among us, are anxious to see that land reeking in blood ! But the more intimate are our connections with that land, the more exposed are we to be contaminated by its pollutions ; and the more imperatively are we bound to seek its real welfare.

Let it then sink deep in our hearts, let it rest upon our consciences, that in every wicked and cruel act of the Federal Government in behalf of slavery, the people of the North have participated,—we might almost say that for all this wickedness and cruelty, they are *solely responsible* ; since it could not have been perpetrated but with the consent of *their* representatives. Vast and fertile territories, which might now have been inhabited by a free and happy population, have by northern votes been converted, to use the language of the poet, into

“ A land of tyrants, and a den of slaves.”

By northern Senators, have our African slavers been protected from the search of British cruisers. By northern representatives, is the American slave trade protected, and the abominations enacted in the Capital of the Republic, sanctioned and perpetuated : and northern men are the officiating ministers in the sacrifice of constitutional liberty on the altar of Moloch. But representatives are only the agents of their constituents, speaking their thoughts, and doing their



will. THE PEOPLE OF THE NORTH have done "this great wickedness." When *they* repent, when *they* love mercy, and seek after justice, their representatives will no longer rejoice to aid in transforming the image of God into a beast of burden—then will the human shambles be overthrown in the Capital—then will slavers "freighted with despair," no longer depart from the port of Alexandria, nor chained coffles parade the streets of Washington. Then will the powers of the Federal Government be exercised in protecting, not in annihilating the rights of man; and then will the slaveholder, deprived of the countenance of the free States, as he is already of nearly all the rest of the civilized world, be led to reflect calmly on the character and tendency of the institution he now so dearly prizes, and seek his own welfare and that of his children in its voluntary and peaceful abolition.

But here we are confronted with direful prophecies. Let us then proceed to inquire into

#### THE PROBABLE INFLUENCE OF THE ANTI-SLAVERY AGITATION ON THE PERMANENCY OF THE UNION.

Before we can predict what this influence will be, we must first inquire, what will probably be the direction and aim of the agitation? Every State possesses all the powers of independent sovereignty, except such as she has delegated to the Federal Government. All the powers not specified in the Constitution as delegated, are by that instrument reserved. Among the powers specified, that of abrogating the slave codes of several States, is not included; on the contrary, the guarantee of the continuance of the African slave trade for twenty years, the provision for the arrest of fugitive slaves, and the establishment of the federal ratio of representation, all refer to and acknowledge the existence of slavery under State authority. If therefore the abolitionists, unmindful of their solemn and repeated disclaimers of all power in Congress to legislate for the abolition of slavery in the States, should with unexampled perfidy attempt to bring about such legislation; and if Congress, regardless of their oaths, should ever be guilty of the consummate folly and wickedness of passing a law emancipating the slaves held under State authority, the Union would most unquestionably be rent in twain. The South would indeed be craven could it submit to such profligate usurpation; it would be compelled to withdraw, not for the preservation of slavery alone, but for the protection of all its rights; and indeed the liberties of every State would be jeopardized under a government,

which, spurning all constitutional restraints, should assume the omnipotence of the British Parliament. But it is scarcely worth while to anticipate the consequence of an act which can never be perpetrated so long as the people of the North retain an ordinary share of honesty and intelligence.

We have, under all the circumstances of the case, sufficient reasons for believing that the anti-slavery of the North, will carry its action to the very limits of the Constitution, but not beyond them. In despite of all the coalitions of parties, and the intrigues of politicians, liberty of speech and of the press will be maintained, and the discussion of slavery will be extended by the very efforts made to arrest it. Let us suppose this discussion to be attended with its natural and probable result, the conversion of the great mass of the northern people to the principles and avowed objects of the abolitionists. Of course, those principles and objects will be embraced by their representatives in Congress. In this case, we may expect that slavery will be abolished in the District of Columbia, and that it will be prohibited in the territories hereafter to be formed on the west of the Mississippi. Thus far the constitutional power of Congress cannot be rationally questioned. Independent of the exclusive jurisdiction over the territories granted to Congress, we have the precedent of the ordinance of 1787, prohibiting slavery in the North-west Territory, and the more recent precedent of the prohibition of it in the Louisiana territory north of  $38\frac{1}{2}$  degrees of north latitude. The American slave trade is now, and has been for upwards of thirty years, prohibited in vessels under forty tons burden. It would not be easy to show that the Constitution forbids its prohibition in vessels over forty tons burden. We may therefore take it for granted, that the *Senate's coasting trade* will be legally abolished. Should the land traffic not be also destroyed, it would not be for want of disposition, or constitutional power in Congress, but on account of the extreme difficulty which would exist in preventing evasions of the law.

We have now the sum total of national legislation, which on our present supposition, will result from the anti-slavery action at the North. Yet we are positively assured that such legislation would cause a dissolution of the Union. Now admitting the constitutional right, and the moral obligation of our national legislators, to pass the laws in question, it would be difficult to decide by what code of morals they could be excused from the discharge of their duty by the apprehension of consequences. If God governs the world, more is to be

feared from rebellion, than from obedience to his will. If his wisdom and goodness are both infinite, his will is and must be an infallible standard of expediency. If it be folly to barter a single soul for the whole world, would it be wise to expose a nation to the wrath of Heaven, for a boon which we now hold, and would continue to hold at the pleasure of men who are daily threatening to deprive us of it?

But we have no fears that Congress will ever find the faithful discharge of their duty, conflicting with the welfare and preservation of the Union. How far selfish and influential individuals may succeed in raising up at the South a party for secession, it is impossible to predict; but it is not difficult to show that a separation founded on the legislation we have specified, would be most preposterous and disastrous, and therefore we may reasonably presume it will not occur.

Should the South secede, they would do so we may suppose, for one or more of the following reasons, viz.

1. To protect their rights from invasion.
2. To guard and perpetuate the institution of slavery.
3. To increase their wealth and power.

The North is the strongest portion of the confederacy; and whenever, unmindful of the federal compact, it wickedly and forcibly usurps power to the prejudice of the South, secession is the only resource left to the latter for the protection of its rights. But a disregard to the *wishes* does not necessarily imply a violation of the *rights* of the South. Not one of the measures we have contemplated as the probable result of the anti-slavery agitation, encroaches on the constitutional rights of the South; and therefore secession, however it might be professedly justified, would in fact be prompted by other motives than that of self-defence. But so long as the Federal Government confines its action against slavery within the limits of the Constitution, in what way would secession tend to guard and perpetuate the institution?

It is natural that the slaveholders should wish to destroy the influence of the abolitionists, and hence they have very unjustifiably expressed fears respecting them which they do not feel, and circulated calumnies which they do not believe. The following admissions reveal the *true* nature of the apprehensions entertained by the slaveholders.

Mr. CALHOUN, alluding in the Senate to opinions expressed by some of his Southern colleagues, exclaimed: "Do they expect the abolitionists will resort to arms, and commence a crusade to liberate our slaves by force? Is this what they mean when they speak of the attempt to abolish slave-

ry? If so, let me tell our friends of the South who differ from us, that the war which the abolitionists wage against us, is of a very different character, and far more effective—it is waged not against our lives, but our character.”

Mr. DUFF GREEN, the editor of the United States Telegraph, and the great champion of slavery, thus expressed himself in his paper. “We are of those who believe the South has nothing to fear from a servile war. We do not believe that the abolitionists *intend*, nor could they if they would, excite the slaves to insurrection. The danger of this is remote. We believe that we have most to fear from the organized action upon the *consciences* and fears of the slaveholders themselves; from the insinuation of their dangerous heresies into our schools, our pulpits, and our domestic circles. It is only by *alarming the consciences* of the weak and feeble, and diffusing among our people a morbid sensibility on the question of slavery, that the abolitionists can accomplish their object.”\*

We would now respectfully submit to Mr. Calhoun’s consideration, whether a secession would tend in any way to defend the *characters* of slaveholders from the war he contends is waged against them; or fortify their *consciences* against the “dangerous heresies” by which they are assailed?

The new slave nation would acquire from her separate independence, no new power to darken the understandings, or benumb the consciences of her citizens. The freedom of the press throughout the whole slave region, is already extinguished. Not one single newspaper, from Maryland to Florida, dares to raise its voice in favor of immediate emancipation; and a southern publication, for expressing views unfavorable to slavery, notwithstanding its bitter denunciations of abolitionists, was lately taken from a Post-Office in Virginia, and in pursuance of *the laws of the State*, committed to the flames by order of the public authorities; and when the laws are silent, lynch clubs are ready to visit with infamous and cruel penalties, the man who presumes to advocate the inalienable rights of man. What new ramparts could the southern confederacy build around their beloved institution? What new weapons could they forge against freedom of discussion?

At the North, the discussion of slavery is now greatly restricted by political and mercenary considerations; but such

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\* The New-York whig merchants may learn from this candid avowal, that the “bare idea” of the abolition excitement does *not* make every “husband and father shudder with horror” at the South, whatever it may do in Wall-street.



considerations would be dissipated in a moment by secession. The very demagogues who are fawning upon the slaveholders for their votes, would, when they had no longer votes to bestow, seek popularity in ultra hatred to slavery.

The anti-slavery agitation at the North, is at present chiefly confined to the religious portion of the community; it would then extend to all classes, and be embittered by national animosity. Slavery would appear more odious and detestable than ever, after having destroyed the fair fabric of American Union, and severed the bonds of kindred and of friendship, to rivet more firmly the fetters of the bondman.

The slaveholders are now our fellow-countrymen and citizens; they would then be foreigners who had discarded our friendship and connection, that they might trample with more unrestrained violence upon the rights and liberties of their fellow-men. These considerations show that any expectation of extinguishing or weakening the anti-slavery feeling at the North by separation, must be utterly futile.

A separation would moreover deprive the institution of the protection of the Federal Government. Should the slaves attempt to revolt, the masters would be left to struggle with them, unaided by the fleets and armies of the whole Republic.

And by what power would the master recapture his fugitive who had crossed the boundary of the new empire? Now he may hunt him through the whole confederacy, nor is the trembling wretch secure of his liberty, till he beholds the British standard waving above him. *Then* freedom would be the boon of every slave who could swim the Ohio, or reach the frontier line of the free republic. And this frontier line be it remembered, *would be continually advancing South.*—The anti-slavery feelings of the North, aggravated as they would be by the secession, would afford every possible facility to the fugitive, and laws would then be passed, not for the restoration of human property, but for the protection of human rights.

Would the dissolution of the Union afford the southern planters a more unrestricted enjoyment of the foreign or domestic slave trade? Alas! from the moment of separation, slave trading becomes PIRACY in fact, as well as in name, and the crews of New-Orleans and Alexandria, as well as of African slavers, would swing on northern gibbets.

We confess then our utter inability to perceive in what possible mode, a secession of the southern States would tend to guard and perpetuate the institution of slavery.

Would a dissolution of the Union augment the power and wealth of the slave States? The power and wealth of a nation depend on its population, industry, and commerce. The increase of the white population at the South is now small, compared with the wonderful tide of life which is rolling over the western plains. And when the southern region shall be insulated from the sympathies of the whole civilized world, and consecrated to a stern and remorseless despotism,—a despotism sooner or later to be engulfed in blood, by what attraction will it divert the tide of emigration from the fair prairies of the west, to its own sugar and cotton fields? If even now, armed patrols must traverse at night the streets and highways that the whites may sleep in safety, and military preparation is essential to domestic security,\* what husband or father will take up his residence in the new empire when withdrawn from the protection of the Federal Government, and the friendship of its neighbors? The slaves are now rapidly gaining upon their masters, and will increase in a still greater ratio after the separation, since the prudent and the enterprising will abandon the doomed region, and few or none will enter it from without. Hence it is obvious that the white population could gain no accession from the erection of the Southern States into a separate confederacy.

Would secession augment the wealth of the South? Be it remembered that there is now no one restriction on southern industry and enterprise which separation would remove. The slaveholders in Congress with rare exceptions, have conducted the affairs of the nation to suit themselves. So far as the interests of the northern manufacturer were identified with the tariff, they have been sacrificed at the mandate of the cotton grower; and so far as national legislation can promote the wealth of the South, the statutes are already enacted.

It will not be denied that the larger portion of the strength of the Union—population, money, commerce, and shipping is to be found at the North. In all these elements of national power, the South participates equally with the North. The foreign invader is kept from her shores, and her property abroad is protected from spoliation at least as much by the power of the North, as by her own. Her strength for all purposes of defence, is the strength of the Union. What

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\* "A state of military preparation must always be with us a state of perfect domestic security. A profound peace, and consequent apathy, may expose us to the danger of domestic insurrection."—*Message of Gov. Hayne to the Legislature of South Carolina, 1833.*

would it be after secession? True it is, the South would receive Texas into her arms, but she would derive neither honor nor power from the loathsome embrace. Annexation *now* would ensure to her the political dominion of the whole Republic, but *after* secession, would cause rather weakness than strength.

As we can discover no possible advantage which the South could derive from secession, we are convinced that the threats of dissolving the Union, which her statesmen are so prodigal in scattering, are the ebullitions of passion, or the devices of policy, rather than the result of mature determination. This conviction is strengthened by still further considerations.

Should the slave States withdraw without any aggression on their rights, but for the sole purpose of enjoying in greater privacy and tranquility the sweets of slavery, they would leave the whole North in a state of high exasperation. The ligaments which have so long bound us together, cannot be ruthlessly and wantonly torn asunder, without causing deep and festering wounds, the consequences of which, the imagination revolts from anticipating. And in what light would the dark and gloomy despotism be viewed by the civilized world? Mankind would behold, and wonder, and despise. The new State would be excluded from the companionship of nations. Her cotton would indeed be still purchased, as we buy the coffee of Hayti; but with the least possible intimacy. Already is our Minister at London treated with contumely, because he is a slaveholder—as the representative only of the men who had shattered the American republic to secure the permanency of human bondage, he would not be endured at any court in Europe with the exception of Constantinople. In a few years, the slaves would attain a frightful numerical superiority over their masters. The dread of insurrection within, and of aggression from without, would realize the prediction of holy writ, when men's hearts shall fail them for fear, and for looking after those things which are coming on the earth. At length the fatal period would arrive, when, stung with insults and injuries, the new empire would appeal to arms; and should a hostile army land upon its shores, the standard of emancipation would be reared, and slavery would expire in blood.

We well know with what indignant feelings these pages will at first be read by many; and fortunate shall we deem ourselves should we escape the imputation of writing to promote insurrection and disunion. But we appeal from the decision of angry passion to that of calm reflection. Do we

not speak the words of truth and soberness? Do not the signs of the times warrant our predictions? In what respect do the sentiments we have uttered conflict with the lessons of history, or the character of human nature? Do we love the union of the States? (!) If such a love can descend by inheritance, we should possess it; if it can be founded on the most thorough conviction of the importance of union not merely to the prosperity of our country, but to the happiness of numerous and beloved children and relatives, we should possess it. If the history of the States of Greece, of Italy, of Holland, of Germany, of South America, and of our own land, demonstrates the blessings of union, and the calamities of separation; then should the prayer of every American ascend to Heaven for the perpetuity of the American Union. But let it be a union for the preservation, not the destruction of liberty: a union cemented by a sacred observance of the constitutional compact; not enforced by gag laws, a censorship of the press, and the abrogation of the right of petition—a union in conformity with the will of God, not in contempt of his authority—a union that shall be regarded as a common blessing, not held as a boon from the South, ever ready to be withdrawn as a penalty for the discharge of moral and political duties.

May Almighty God in mercy preserve the friends of emancipation, from the sin and folly of even hazarding the Union, by the slightest encroachment on the constitutional rights of the South, and may He give them grace to maintain their own rights in defiance of every menace.



## APPENDIX.

### THE AMISTAD CASE.

In the month of July, 1839, the Spanish schooner *Amistad*, Ramen Ferrer, master, sailed from Havana for Porto Principe, a place in the island of Cuba, about 100 leagues distant, having on board as passengers, Don Pedro Montes, and Jose Ruiz, with 54 fresh African negroes, just brought from Lemboko, as slaves. After being out four days, the negroes rose in the night, killed the captain and cook, and took possession of the vessel. The two sailors took the boat and went on shore, and Montes was required, on pain of death, to navigate the vessel to Africa. He steered eastwardly in the day time, but put about at night, and thus kept near the American coast, until the 26th of August, when they were taken by Lieut. Gedney, United States Navy, and carried into New-London. Judge Judson, of the United States Court, was sent for, and after a short examination of the two Spaniards, and a Creole cabin boy, without a word of communication with the negroes, the latter were bound over for trial as pirates, although their utter ignorance of any European language, and the admission of Ruiz himself showed that they were fresh Africans, and of course could not be slaves by the laws of Spain. At this time, it was the united voice of the public press and of public men, that as a matter of course, they would either be tried and executed here, or delivered up to the Spaniards.

The abolitionists saw that these men had only exercised the natural right of self-defence, justified by all laws, and that justice to these strangers, and a regard for the honor of law itself, required a vigorous effort to turn the tide of public opinion and judicial prejudice. Messrs. S. S. Jocelyn, J. Leavitt, and Lewis Tappan, were appointed a committee to take charge of the case, who immediately engaged as counsel, Seth P. Staples and Theodore Sedgwick, Esqrs., of New-York, and R. S. Baldwin, of New-Haven. Our hands were strengthened by a letter from Mr. Adams, which was published in the newspapers, asserting the right of the negroes to act as they did, and declaring that the vessel and its contents were theirs by the law of nations.

On the 6th of September, M. Calderon de la Barca, the Spanish Minister, demanded the immediate delivery of the schooner and cargo to Ruiz and Montes, under the treaty, and that "the negroes be sent to be tried by the proper tribunal" in Cuba. He thus establishes the distinction between the "negroes" and the "cargo." He urges as reasons why the negroes should be given up, "the law of nations in a case analagous," and also that "the crime in question is one of those, which, if permitted to pass unpunished, would endanger the internal tranquility and safety of the island of Cuba, where the citizens of the United States not only carry on a considerable trade, but where they possess territorial properties which they cultivate with the labor of African slaves;" and further, that if the negroes "should be condemned by the incompetent tribunal that has taken upon itself to try them as pirates and assassins, the infliction of capital punishment here would not be attended with the salutary effects," and "the satisfaction due to the public mind would not be accorded." And as a further inducement, he promises that his Government "would immediately accord the extradition of any slaves that might take refuge there from the southern States."

On the 5th of September, the United States Attorney for the District of Connecticut, W. S. Holabird, Esq., wrote to Mr. Forsyth, the Secretary of State, apprising him that "the Marshal of this District has in his custody the Spanish schooner *Amistad*, with her *cargo and 41 blacks*, supposed to be slaves." The blacks "are now in jail at New Haven," and "the schooner and cargo have been libelled by Lieut. Gedney" for salvage. Here again is the distinction between the "cargo" and the "blacks." He says also, "the next term of our Circuit Court sits on the 17th instant, at which time I suppose it will be my duty to bring them to trial, unless they are in *some other way disposed of*." To this Mr. Forsyth replies, Sept. 11, that the Spanish Minister has claimed the "vessel, cargo, and blacks on board, as Spanish property," and directing Mr. Attorney to "take care that no proceeding of your Circuit Court, or of any other judicial tribunal, places the vessel, cargo, or slaves beyond the control of the Federal Executive." M. Calderon had not demanded the "blacks" as "property" at all, but as criminals; and his successor, M. Argaiz, Nov. 26, says his complaint is that "the public vengeance has not been satisfied, for be it recollected that the legation of Spain *does not demand the delivery of slaves, but of assassins*." In the face of this declaration

of the legation, Mr. Forsyth instructs Mr. Holabird that the blacks are claimed as "property," and the whole proceeding of our Government is based upon this false assumption.

On the 9th Sept., Mr. Holabird writes to Mr. Forsyth that he thinks the United States Courts have no jurisdiction over the alleged crime, as it was committed on board a Spanish vessel on the high seas, and he eagerly asks "whether there are no treaty stipulations with the Government of Spain that would authorize our Government to deliver them up to the Spanish authorities; and if so, whether it could be done before our Court sits?" The Executive, however, dared not take the responsibility of sending these MEN beyond seas by a mere order, without warrant or form of law.

Mr. Holabird writes again, Sept. 21, to Mr. Forsyth, that "with a view of carrying out your instructions," that is, to prevent "any other judicial tribunal" from placing the negroes "beyond the control of the Federal Executive," he had "filed a libel in the District Court, against the negroes, in behalf of the United States, averring" that they had been claimed by the Spanish Government *as property*, and also that they had been "imported in violation of the law of 1819" prohibiting the slave trade, and praying the Court to "decree that the Marshal hold them subject to the order of the Federal Executive on the one claim or the other." The Circuit Court instructed the Grand Jury that they had no jurisdiction over the alleged crime. The Committee then caused a writ of *habeas corpus* to be issued from the Circuit Court, to know by what authority the negroes were detained by the Marshal, but Judge Thompson, after full argument, decided that, since these persons had been libelled as property, the question of their right to liberty could not be examined on *habeas corpus*—thus subjecting the Common Law and *habeas corpus* to the paramount authority of the Civil Law in Admiralty process, on a claim of human beings as property—a virtual prostration of the great bulwark of personal liberty, the *habeas corpus*.

The hearing of the case in the District Court was adjourned to the November term, and afterwards to January. On the 5th Nov., Mr. Holabird again writes to Mr. Forsyth that "if there is any action to be had on the part of our Government, with reference to the blacks, it is important that we be informed, *either officially or unofficially, before the session of the court.*" And again, Nov. 14, asking leave to employ assistant counsel because "my health is feeble, and *if the matter is not disposed of by the Executive* before our Court sits,

much is to be done." This proves beyond a doubt that there were all the while negotiations and consultations going on, "officially or unofficially," to see if some method could not be hit upon to put these negroes in the power of their enemies, and satisfy "public vengeance" at Cuba, without waiting the slow and uncertain movements of the courts of law. But the risk was too great of thus openly assuming the forms as well as powers of despotism. This is surprising too, inasmuch as the Attorney General of the United States, Hon. Felix Grundy, had advised in the first stage of the proceedings, that the negroes were a part of the cargo, and that the proper mode of proceeding "would be for the President of the United States to *issue his order, directed to the Marshal*, in whose custody the vessel *and cargo* are, to deliver the same" including the negroes, to the order of the Spanish Minister; and M. Argaiz says, Dec. 25, this opinion "was confidentially communicated to him at the Department of State on the 19th of November," and "he was assured had been adopted by the Cabinet."

In the mean time, the Vigilant Committee on behalf of the negroes, had Messrs. Ruiz and Montes arrested in New York, on a civil suit for assault and false imprisonment on the high seas. This brought out a bitter complaint from M. Argaiz, Oct. 22, which was answered by Mr. Forsyth instructing the United States Attorney for New York, B. F. Butler, to offer them his "advice and aid if necessary, as to any measure which it may be proper for them to take to obtain their release, and indemnity" for their arrest. Mr. Butler very properly advised them that the only way to get out of prison was to give bail, but Ruiz declined to give bail, "for reasons of state," as he himself said in a note in the newspapers, or as Mr. Butler informs Mr. Forsyth, November 18th, "under the hope that his deliverance might be effected through the intervention of the Government of the United States," but finding this could not be done, bail was finally given. The suit, however, was never brought to trial. The transaction, however, exhibited the spirit of the Executive. M. Argaiz writes to Mr. Forsyth, Dec. 25, "The undersigned would not have troubled the Government of the Union with his urgent demands, if the two Spaniards (who as the Secretary of State, in his note of the 12th, says 'were found in this distressing and perilous situation by officers of the United States, who moved by *sympathetic feelings which subsequently became national*') had not been the victims of an *intrigue*, as accurately shown by Mr. Forsyth, in the confer-



ence which he had with the undersigned on the 21st of October last." And Mr. Forsyth, in the letter above referred to, Dec. 12, assures M. Argaiz that "with the single exception of the  *vexatious*  detention to which Messrs. Ruiz and Montes had been subjected in consequence of the civil suit instituted against them,  *all the proceedings*  in the matter, on the part both of the executive and judicial branches of the matter, have had their foundation in the  *assumption that those persons alone were*  the parties aggrieved, and that their claim to the surrender of  *the property*  was founded in fact and in justice."

All this, however, does not satisfy the Spanish Minister, who had claimed, Nov. 26, that it was the duty of the Government to have acted " *gubernativamente* " by Executive mandate; and declared that it "must be the opinion of the Cabinet," that the Government possessed already "the necessary powers to act  *gubernativamente* ," and "without awaiting the decision of any court." And he demands such action as a proper "proof of the scrupulousness and respect with which this nation fulfills treaties;" and he threatens that "if, contrary to this hope, the decision should not be as the undersigned asks, he can only declare the General Government of the Union responsible for all and every consequence which the delay may produce." No rebuke was returned for this insolence, but when, afterwards, Jan. 20, 1841, the British Ambassador, Mr. Fox, in obedience to the orders of his Government, wrote to Mr. Forsyth, courteously expressing his "hope" that the President would "find himself empowered to take such measures for the Africans as shall secure to them their liberty, to which, without doubt they are by law entitled," the Secretary tartly replies, that the communication is received "as an evidence of the benevolence of Her Majesty's Government— *under which aspect alone it could be entertained*  by the Government of the United States."

In his letter of Dec. 12, Mr. Forsyth had assured M. Argaiz that while the delays and proceedings in the courts were "beyond the control of this Department," at the same time "it is not apprehended that  *they will affect the course*  which the Government of the United States may think fit ultimately to adopt." What this hint was designed to assure M. Argaiz of, we could probably better understand if we had minutes of the "confidential" conversations so often referred to in the correspondence. As it is, we can only infer what was meant, from what was done. Dec. 30, M. Argaiz writes to Mr. Forsyth, referring to "a conversation which I had

with you on the morning of the day before yesterday," in which "you mentioned the possibility that the Court of Connecticut might, at its meeting on the 7th of January next, declare itself incompetent, or order the restitution of the schooner *Amistad*, with her cargo, and the negroes found on board of her;" and saying that as "these negroes have declared before the Court of Connecticut, that they are not slaves, and that the best means of testing the truth of their allegation is to bring them before the courts of Havana," and he is "at the same time desirous to free the Government of the United States from the trouble of keeping said negroes in prison;" he asks as a final and "most particular favor," that our Government would place the negroes "at the disposal of the Captain General of the Island of Cuba, by transporting them thither in a ship belonging to the United States."

On the 6th of Jan. 1840, Mr. Forsyth replies, that he is instructed by the President to state that "in the event of the decision of the Circuit Court of Connecticut being such as is anticipated," he will "cause the necessary orders to be given for a vessel of the United States to be held in readiness to receive the negroes and convey them to Cuba;" and that "the President has the more readily acceded" to the request, that the negroes "may have an opportunity of proving the truth of their allegation" that they are not slaves, "before the proper tribunals of the island." A most benevolent motive for sending persons out of the country!

On the same day, Mr. Forsyth wrote to Mr. Holabird that "the President has, *agreeably to your suggestion*, taken in connection with the request of the Spanish Minister, ordered a vessel to be in readiness to receive the negroes," as "the presumption is that the court will decree" that "they are to remain in the custody of the Marshal to be delivered over"—and requiring him to have all the documents "*ready to be handed over* to the commander." The requisition upon the Navy Department is dated Jan. 2, and requires the vessel "to be ordered to anchor *off the port* of New-Haven," not in the harbor, "as early as the 10th of January," and there await her final instructions. The *Grampus*, Lieut. Paine, sailed under sealed orders from the Navy-Yard at Brooklyn. By letter of Jan. 7, Lieut. Paine was directed to "place himself in communication" with Mr. Holabird, that "he may receive *the earliest information* of the decision of the court." All this, and many other circumstances, evidently point to an understanding among the parties with regard to "the

course which the Government" was now "ultimately to adopt." No letter of Mr. Holabird containing the "suggestion" about sending the negroes away in a national vessel, appears among the printed documents, and it must therefore have been made in the course of that "confidential" intercourse, carried on "officially or unofficially," which is so often alluded to. The friends of the Africans were not insensible to the danger of some secret and sudden movement, and therefore took the best measures in their power, by sleepless vigilance, and by providing fleet horses at hand, to baffle any such design. That these fears were not groundless, will be seen by a letter from Mr. Holabird to Mr. Forsyth, written Jan. 11, during the progress of the trial at New-Haven, in which he points out an error in "the Executive warrant to the Marshal of this District for the delivery of the negroes of the *Amistad*," in using the term "Circuit Court" for "District Court." He says, "should the *pretended* friends of the negroes obtain a writ of habeas corpus, the Marshal could not justify under that warrant." And he proceeds, "The Marshal wishes me to inquire whether, in the event of a decree by the court requiring him to release the negroes, or in case of an appeal by the adverse party, it is expected the Executive warrant will be executed?" What expectation does this point to? This was despatched by an express messenger, with such haste, lest perchance this clerical blunder should defeat the designs of the Government, that the reply of Mr. Forsyth is dated the following day, and correcting the mistake, and instructing him, "by direction of the President, that, if the decision of the court is such as is anticipated, the order of the President is to be carried into execution, unless an appeal shall actually have been interposed. You are not to take it for granted that it will be interposed." This is a plain intimation that it was intended to hurry the negroes out of the jurisdiction of the court on the instant the expected decision of the court should be given. The following is the "Executive Order," which Mr. Van Buren should have always before his eyes, and posterity should cause it to be graven on his tomb, to rot only with his memory.

"The Marshal of the United States for the District of Connecticut, will deliver over to Lieut. John J. Paine, of the United States Navy, and aid in conveying on board the schooner *Grampus*, under his command, all the negroes, late of the Spanish schooner *Amistad*, in his custody, under process now pending before the Circuit Court of the United

States for the District of Connecticut. For so doing this order will be his warrant.

"Given under my hand, at the city of Washington, this 7th day of January, A. D. 1840. "M. VAN BUREN.

"By the President :

"JOHN FORSYTH, Secretary of State."

The unexpected decision of Judge Judson in favor of the negroes, declaring them to be manifestly fresh from Africa, and so entitled to their liberty even under the laws of Spain, defeated all these plans, and drove the Government to the necessity of appealing to the Supreme Court of the United States for a final decision, and of supporting this large company in custody at a vast expense, not yet publicly ascertained, all which was cheerfully undertaken, rather than yield to the demands of justice and mercy to the strangers. The Committee took the best methods in their power to give these benighted heathen such instruction as they were capable of receiving; and the most thorough preparations were made for the final trial, which took place at Washington, at the term of the Supreme Court for January, 1841. By the blessing of Heaven upon the efforts of the counsel, Mr. Baldwin, and the venerable John Quincy Adams, aided by the light thrown upon the public mind, the Supreme Court confirmed the decision of the lower tribunal, so far as to declare the negroes perfectly FREE. "Thy prey hath escaped thee!"

In the following autumn, so many as survived were sent, by public charity, to Sierra Leone, on the coast of Africa, and within a moderate distance of their own homes. *Laus Deo.*

#### THE CREOLE CASE.

On the 27th of October, 1841, the brig *Creole*, of Richmond, a regular slaver in the *American* slave trade, sailed from Hampton Roads for New-Orleans, "with a cargo of slaves and tobacco," the slaves about 135 in number. On Sunday evening, Nov. 7, the captain hove to, expecting to make Abaco reef next morning. About 9 o'clock P. M., a rising took place of a part of the slaves, who soon obtained complete possession of the vessel, having in the struggle wounded the captain and killed a man named Hewell. They retained the possession, and compelled a passenger named Merritt to navigate them to Nassau, where she arrived, in possession of the negroes, on the 9th. The American Consul, John F. Bacon, immediately went on board, and placed



the passenger named Merritt in command, ordering him to keep the American colors set. He also applied to the Governor for an armed force to prevent any of the "slaves" from landing "until further investigations can be made." In compliance with this request, an officer with 20 black troops was sent on board the vessel, and an official notification sent to the Consul, 1. That the courts of the island had no jurisdiction of the alleged offences, and 2. That inasmuch as it was charged that the crime of murder had been committed on the high seas, an examination would be had and all parties that should appear to be implicated in the crime "should be detained here until reference could be made to the Secretary of State," in England, to decide whether they could be delivered over to the American Government. The examination was not concluded until Friday, about 12 o'clock, when the mate in command said he had no more witnesses to produce, and 19 of the negroes, being all that were identified as having taken any part in the capture or control of the vessel, were sent on shore as prisoners, the guard of troops withdrawn, and the rest of the negroes told that they were no longer under restraint, but were free to go ashore, or where they pleased. The Attorney General of the island says that the mate, Gifford, informed him that "it was not his desire to detain on board of his vessel one of the persons (shipped as slaves) who did not wish to remain, and that they had his free permission to quit here, if they thought proper to do so; but that he was apprehensive the persons in the surrounding boats" (a large number of which were in the neighborhood, to convey and welcome the strangers to the shore) "would, as soon as the military were withdrawn, board his vessel and commit acts of robbery and other violence." To this, Mr. Attorney replied, as he says, that he "had no instructions to interfere" between him and "the persons" called slaves, and that as to the people in the boats, "precautions had been taken against" violence, and "he might rely upon being protected by the authorities against any violations of the law." He declares that the departure of the negroes from the Creole "was their own free and voluntary act, sanctioned by the express consent of the mate, and that neither myself nor any other of the authorities of the colony then on board interfered in the slightest manner to induce them to take that step." All the colored persons immediately rushed into the boats and went ashore, except four or five of the women. On the 18th, a vessel sailed for Jamaica, with 50 passengers, the greater part being of those who

landed from the Creole, and on the 19th, the Creole sailed for New-Orleans, where she arrived Dec. 2d.

The American Consul protested to the Governor against the proceedings by which the negroes had been allowed to go ashore. The ground of his complaint is thus stated :

“ These slaves, as I view the case, while they were under the American flag, and regularly cleared from one slaveholding State to another, within the United States, were as much a portion of the cargo of the said brig, as the tobacco and other articles on board ; and whether on the high seas, or *in an English port*, does not change their character ; and that her Majesty’s Government had not the right to interfere with or control the officers of an American vessel, so circumstanced, in such a course as might be *necessary and proper to secure such property* from being lost to the owners.”

This is the American claim, then, that the condition of slavery, which was fixed upon these persons in Virginia remained so attached to them in a British port, that their master or owner had a right to demand the aid of British authorities to re-establish his authority, and then a right to use, in such British port, any means, of force or fraud, necessary to “secure *such property*” from the peculiar perils of these waters.

That both force and fraud were planned by the Americans, and prevented by the British authorities, is plain from the documents. Capt. W. Woodside, of Brunswick, Maine, master of the bark Louisa, then at Nassau, deposes that on the 13th, at the time the Creole was surrounded by boats with colored persons, none of whom were allowed to come on board until the 19 prisoners were secured, “that at about 12 o’clock a boat with five white men came along side, and were ordered off, though this deponent informed the officers that they had been sent by the American Consul *to supply the place* of those on shore.” The Consul, in his letter to Mr. Webster, says, “I was informed by respectable persons that an attempt would be made to liberate the slaves by force.” The mate also informed him that “the crew were greatly intimidated,” and in consequence of this, “a mate and four American seamen volunteered to go on board, and proceeded to the brig at my request.” This was the aspect of the transaction officially presented to the American Government, and used by it as the basis of an application to the British Government for redress and indemnity. But it so happened that the cargo of slaves was insured, and in the policy there was a guaranty by the insured against mutiny

of the slaves. For the purpose therefore, of exonerating the vessel, and of charging the insurers, as well as to secure the freight on the lost cargo, another pretext was made, at New-Orleans, by Gifford, as acting master, and the crew and passengers, which tells the whole story about the "five white men," sent by the American Consul, "to supply the place of those on shore," and shows the nature of the "interference" which was afterwards the ground of complaint.

[See Senate Documents, 27th Congress, 2d Session, No. 51, pp. 44, 45.]

By reference to the above document it will be seen that it was the not making a distinction between the boats that hovered around the Creole at the moment of closing the examination—the not keeping off the blacks and letting on the whites, the refusal to countenance *and aid* this CONSPIRACY, which constitutes the head and front of the "interference" by the British authorities. After the negroes were landed, the Attorney General sent to the brig for the *baggage* of the "passengers," which was finally taken by an officer of the customs, the mate protesting that both the negroes and their clothing were the property of their masters. The captain then wished to sell some of his provisions, and was told that he might, if he would enter his vessel at the Custom-House, and enter the negroes as passengers, which he declined!

The news reached Washington on the 15th December, and produced the greatest excitement in Congress. On the 22d the case was brought forward in the Senate, by Mr. Barrow, in connection with a memorial of the owners of the *Hermeza*, a slaver that was shipwrecked the year before, and the slaves carried to Nassau and allowed to enjoy their liberty. It was debated by Messrs. Barrow, Calhoun, King, Preston and Rives, all slaveholders, not one northern Senator saying a word! Mr. King said, "If such outrages continue, nothing could prevent a collision; and unless the British Government *should retrace her steps*, war must inevitably ensue." Mr. Calhoun hoped the citizens would "know what protection this Government could extend to their property, and if we cannot obtain justice, every man with an American heart will be ready to raise his hand against oppression." Mr. Preston "did not consider it a case of war." He said, "the British Government had fallen into new hands, and there was some reason to believe that the new Ministry would reverse the former decision respecting the seizure of slaves." Mr. Barrow said, "the people of the South would not sub-



mit to British interpretation of the laws of nations, making a distinction between slaves and goods ;" and that " if these contemptible British subjects at Nassau are permitted to go on in this way, seizing by force of arms and liberating slaves belonging to American citizens, the South would be compelled to fit out an armament and destroy those towns." Mr. Rives " was opposed to this premature discussion." The voice of the Senate had been given by " the unanimous vote on the resolutions respecting the case of the *Enterprise*." These gentlemen did not advert to the fact that it is not British policy that creates the difficulty, but the British law, and that for England to retrace her steps in this matter, she must first destroy her Constitution. And yet it goes out uncontradicted, that unless she emasculate the habeas corpus, we will wage war against her.

On the 10th of January, the subject was brought up again, by Mr. Calhoun, who offered a resolution calling upon the President for information respecting the Creole, " the murdering of a passenger, the wounding of the captain and mate by the *slaves* on board, and the occurrences afterwards," &c., with his opinion as to what ought to be done to " redress the wrong done to the American flag." No northern Senator had a suggestion to make.

The next day, when the resolution came up regularly for consideration, the Senate was thrown into a paroxysm, by a motion of Mr. Porter, of Michigan, to substitute the word " persons" for " slaves" as more conformable to the Constitution. Calhoun, in a tone of imperiousness, demanded the object of the motion. It could be with no other object than to deny the rights of the South in regard to their slaves, and he should like to know if there was more than one man on that floor who held such views. Archer, and Berrien, and King, and Preston followed, in the same strain. Preston denied that slaves were persons, in any sense; they were property, and to be treated as property, and he regretted that the fathers of the Constitution had been so fastidious in avoiding the term slaves. Porter remained firm, and marvelled at the sudden discovery that the language of the Constitution was a firebrand; but finally, seeing himself supported by not a single northern Senator, he unfortunately yielded to the entreaties of his venerable colleague, Governor Woodbridge, and withdrew his motion. So the resolution was adopted, unanimously.

The President replied, Jan. 20, communicating the documents received, and saying that the Secretary of State was



to prepare a despatch to our Minister at London "without delay." Some remarks were again made by the slaveholders, no northern Senator saying a word. On the 18th of Feb., the subject was again introduced, by the slaveholders, in connection with the claims on Mexico, no northern Senator offering a word. On the — of Feb., Mr. Walker, of Mississippi, moved another resolution of inquiry, which was adopted, no northern Senator saying a word. The President, in reply, communicated Mr. Webster's letter of instructions to Mr. Everett, our Minister at London, concerning this case. This letter was read, and called forth the most ecstatic eulogiums from the slaveholding Senators, no northern Senator saying a word !

Mr. Webster's letter next requires to be considered. It bears date Jan. 29, 1842, and after a brief recital of the facts, says, "The British Government cannot but see that this case, as presented in these papers, is one calling loudly for redress." He says, the slaves are "recognized as property by the Constitution of the United States in those States in which slavery exists." It would be difficult for Mr. Webster to substantiate this assertion. He says it was "the plain and obvious duty of the authorities at Nassau" to assist the Consul "in putting an end to the captivity of the master and crew," [a full admission that they were brought to Nassau in "captivity" to their masters, the negroes,] which they did—"restoring to them the control of the vessel," which they did—"and enabling them to resume their voyage,"—which they did—"and to take the mutineers and murderers to their own country, to answer for their crimes before the proper tribunal." This last they did not do, and our own Government had just set an example in the case of the *Amistad* "mutineers and murderers." Where, then, is the complaint ? However, Mr. Webster says, "if the facts turn out as stated," in the papers sent, "this Government thinks it a clear case for indemnification," on the ground that the authorities "did actually interfere to set free the slaves, and to enable them to disperse themselves beyond the reach of their owners." We have seen exactly what this interference was. But Mr. Webster asks, "What right had the British authorities to inquire into the cargo of the vessel, or the condition of the persons on board ? These persons might be slaves for life ; they might be slaves for a term of years, under a system of apprenticeship ; they might be bound to service by their own voluntary act ; they might be in confinement for crimes committed ; they might be prison-

ers of war; or they might be free. How could the British authorities look into and decide any of these questions? Or, indeed, what duty or power, according to the principles of national intercourse, had they to inquire at all?" To this it might be replied, that they did not attempt to inquire, but let each one decide and act for himself, refusing to allow one part of the persons on board to exercise violence in depriving the other class of liberty. Mr. Webster further refers to Mr. Calhoun's resolutions, so called, in the Senate in 1840, as "resolutions *unanimously* adopted by that body," and requires Mr. Everett, in all his "communications with Her Majesty's Government," to "seek to impress it with a full conviction of the *dangerous importance to the peace* of the two countries, of occurrences of this kind, and the *delicate* nature of the questions to which they give rise." In other words, he was to hint significantly towards a threat of war, on account of these slaves.

There is an important authority against this claim, that has not been noticed in the whole of this controversy. It is an official opinion given Dec. 6, 1831, on requisition of the Secretary of State, by Mr. Taney, then Attorney General, but now Chief Justice of the United States. It originated in an application of a Mr. Brooks, "to ascertain whether the right of property in a slave, employed as a seaman, on board of a British merchantman, would be protected by the Government of the United States." Mr. Taney says,

"The laws of the several States, made in the exercise of their constitutional powers, are unquestionably a part of the laws of this country, to the extent of the territory on which they operate. If, therefore, by the laws of any of the States, a slave becomes free as soon as he is brought within the limits of the State; and a slave belonging to a British subject, and employed as a seaman on board a British merchant vessel, *is found* within the limits of the State, and is there *taken by the State authorities* from the possession of his owner, and declared to be free, the General Government is under no obligation to interfere in behalf of the master, and he has no right to call on the United States to support him in his claim of property. It is, perhaps, unnecessary now to inquire whether the United States could by treaty, control the several States in the exercise of this power. I think they could not. But the decision of that question is not material in the present state of things; for there is no conflict between the stipulations in the treaty and the laws of the several States which forbid the introduction of slaves within

their limits, and declare that persons of that description, when introduced, shall be free."

But Mr. Webster concedes away his whole case, when he says,

"If, indeed, without unfriendly interference, and notwithstanding the fulfilment of all their duties of comity and assistance by these authorities, *the master of the vessel could not retain the persons, nor prevent their escape, then it would be a different question altogether, whether resort could be had to British tribunals, or the power of the Government in any of its branches to compel their apprehension and restoration.*"

It was the withdrawal of the assistance of the British authorities that disabled the owners from preventing the escape of the negroes. An able article was published in the Virginia papers, written by Conway Robinson, Esq., an eminent lawyer of that State, proving from the decisions of British Courts, and particularly from the great case of Forbes vs. Cochrane, where Judge Helroyd laid down the law thus—"The law of slavery is a law *in invitum* [against the will of the subject,] and when a party gets out of the territory where it prevails, and out of the power of his master, and gets under the protection of another power, *without any wrongful act done by the party giving that protection*, the right of the master, which is founded on the municipal law of the particular place only, does not continue."

Of the multitude of able and eloquent comments of newspapers on Mr. Webster's letter, space is afforded only to a single extract from the London Times :

"We do not doubt that he feels the difficulty of his task—we believe he is alive to the audacity of requiring that English magistrates should administer American law on English territory. His tone is not that of a man who thinks himself in the right. But he finds it necessary to avoid drawing down on his own head and that of the American Executive all that raving of Mr. Calhoun and his friends which at present finds a more innocuous vent in the direction of Great Britain. And with this view he has had to write a letter which shall have about it enough display of argument, and menace, to satisfy these warmer spirits, without absolutely closing the door against reconciliation, or palpably making a fool of himself in the eyes of the British Minister. If these are his objects, his letter deserves much credit for the ingenuity with which he has accomplished them. In the first he seems to have been completely successful. Mr. Walker expressed his gratitude at the tone and principle of the in-



structions. Mr. Calhoun had heard the documents read with great pleasure. The argument occupied the whole ground, and coming from the source it did, it would put, he hoped, an end to this dangerous and unpleasant controversy.— Judging from the cogency of Mr. Webster's arguments, as they appear to us, we can only comprehend this excess of satisfaction in those in whose behalf they are adduced, upon the supposition that Messrs. Calhoun and Co. are sharp enough to see how the real merits of the matter stand, and are actually surprised to find how much can be said for them; like the winner in a famous law suit, from whom the speech of his own able counsel is said to have elicited the incautious ejaculation, that 'he had never known he was such an honest man before.' Of this we wish Mr. Webster joy."

The facility with which Mr. Webster speaks of Madison Washington, and his associates as "mutineers and murderers," might well feel rebuked by the remarks of Chief Justice Marshall, in the case of Thomas Nash, alias Robbins, an impressed seaman, who was demanded of our Government, while Jay's treaty was in force, on a charge of murder. "The act," he said, "of impressing an American, is an act of lawless violence. The confinement on board a vessel is a continuance of that violence, and an additional outrage. Death committed within the United States, in resisting such violence, would not have been murder, and the person giving the wound would not have been treated as a murderer.— Thomas Nash was only to have been delivered up to justice on such evidence as '*had the fact been committed in the United States*, would have been sufficient to have induced his commitment and trial for murder.'"

Mr. Webster's affirmation that slaves are treated as property, by the Federal Government, in the States, guarded and almost deceptive as it is, is yet palpably contradicted by the uniform decisions of Congress with regard to all claims of payment for slaves who have been impressed or otherwise brought into the public service, and killed or lost. The case of Mariguy D. Auterive, which was before Congress almost ten years, and finally quashed in 1828, is well known to Mr. Webster, and is conclusive on this head.

The case of the Creole was brought into the negotiation between Mr. Webster and Lord Ashburton, which resulted in the treaty of Washington. There is no record of these negotiations known to the world, except some letters, which appear to have been written after the whole business was settled, and written on a mutual understanding that they



were written for the "outside people." Mr. Webster's letter on the Creole bears date Aug. 1, 1842. It is long and ingenious, but the point which he elaborates with the greatest care, is, "that by the comity of the law of nations, and the practice of modern times, merchant vessels entering open ports of other nations for the purposes of trade, are presumed to be allowed to bring with them, and to retain for their protection and government, the jurisdiction and laws of their own country." Hence he infers that persons on board an American ship, being slaves while on the high seas, are also slaves in a British port, although they would be free as he admits, if they were to touch the land. While elaborately constructing this argument, he admits what seems to us to deprive it of all value to him, namely, that a State may declare such of its laws as it pleases to extend over its own waters. Now we take it to be distinctly the law of England that slavery can exist no more in its waters than on its solid land; and we think an attempt to make a distinction between the two is utterly unwarranted and futile. According to Mr. Webster's argument, an American vessel might retain her slaves at London Bridge. What Englishman, knowing slaves to be in her, would not immediately apply for a writ of *Habeas Corpus*, and triumphantly effect their liberation?

The most surprising part of the whole is its effect upon the British Ambassador, as disclosed by the tone in which Lord Ashburton replies to it. He entirely evades the argument, with an appearance of timidity for which we are sure there could have been no grounds; while the absence of any adequate enunciation of British law, or declaration of British feeling, in reference to freedom, gives a suspicious and unsatisfactory aspect to the following passage:

"In the meantime, I can engage that instructions shall be given to the Governors of Her Majesty's colonies on the southern borders of the United States to execute their own laws with careful attention to the wish of their Government to maintain good neighborhood, and that there shall be no officious interference with American vessels driven by accident or violence into those ports. The laws and duties of hospitality shall be executed; and these seem neither to require nor to justify any further inquisition into the state of persons or things on board of vessels so situated, than may be indispensable to enforce the observance of the municipal law of the colony, and the proper regulation of its harbors and waters."

This concession or pledge, excited the greatest dissatis-

faction in England, was discussed with much earnestness and severity in both Houses of Parliament, and for a long time stood in the way of the legislation necessary for carrying out the treaty.

In the American Senate, the debates on the ratification of the treaty show that this concession was deemed of great importance. The following extract from the speech of Mr. Calhoun, may serve as a specimen of their exultation :

“ In the first place, the broad principles of the law of nations, on which he placed our right in his resolutions, have been clearly stated and conclusively vindicated in the very able letter of the Secretary of State, which has strengthened our cause not a little, as well from its intrinsic merit as the quarter from which it comes. In the next place, we have an explicit recognition of the principles for which we contend, in the answer of Lord Ashburton, who expressly says, that “ on the great general principles affecting this case” (the Creole) “ they do not differ ;” and that is followed by “ an engagement that instructions shall be given to the Governors,” &c., as above.

“ This pledge was accepted by our Executive, accompanied by the express declaration of the President, through the Secretary of State. To all this it may be added, that strong assurances are given by the British negotiator, of his belief that a final arrangement may be made of the subject by positive stipulations in London. Such is the state in which the negotiation has left the subject.

“ Here again he would repeat, that such stipulations in the treaty itself would have been preferable. But who can deny, when he compares the state of the facts, as they stood before and since the close of this negotiation, that we have gained—largely gained—in reference to this important subject ? Is there no difference, he would ask, between a stern and peremptory denial of our right, on the broad and the insulting ground assumed by Lord Palmerston, and its explicit recognition by Lord Ashburton ?—none in the pledge that instructions should be given to guard against the recurrence of such cases, and a positive denial that we had suffered no wrong or insult, nor had any right to complain ?—none between a final closing of all negotiations, and a strong assurance of a final adjustment of the subject by satisfactory arrangement by treaty ? And would it be wise or prudent on our part to reject what has been gained, because all has not been ? As to himself he must say, that at the time he moved his resolutions, he little hoped, in the short space of two

years, to obtain what has already been gained ; and that he regarded the prospect of a final and satisfactory adjustment, at no distant day, of this subject, so vital in its principles to his constituents and the whole South, as far more probable than he then did this explicit recognition of the principles for which he contended. In the mean time he felt assured the engagement given by the British negotiator would be fulfilled in good faith ; and that the hazard of collision between the countries, and the disturbance of their peace and friendship, has passed away, as far as it depends on this dangerous subject. But if in this he should unfortunately be mistaken, we should stand on much more solid ground in defence of our rights, in consequence of what has been gained ; as there would then be superadded broken faith to the violation of the laws of nations."

The sincerity of this exultation on the part of the slaveholders may be seen in the vote on the ratification of the treaty. Notwithstanding the determination declared by the press and by Senators, not to allow the boundary question to be settled without indemnity for the past and security for the future, in cases like that of the Creole, the treaty was ratified, as appears by the record. On the question to agree thereto, It was decided in the affirmative : Yeas 39, nays 9.

Those who voted in the affirmative are—

Messrs. Archer, Barrow, Bates, Bayard, Berrien, Calhoun, Choate, Clayton, Crafts, Crittenden, Cuthbert, Dayton, Evans, Fulton, Graham, Henderson, Huntington, Kerr, King, Mangum, Merrick, Miller, Morehead, Phelps, Porter, Preston, Rives, Sevier, Simmons, Smith, of Indiana, Sprague, Tallmadge, Tappan, Walker, White, Woodbridge, Woodbury, Wright, Young.

Those who voted in the negative are—

Messrs. Allen, Bagby, Benton, Buchanan, Conrad, Linn, Smith, of Connecticut, Sturgeon, Williams.

SKETCHES

OF THE

LIFE AND WRITINGS

OF

JAMES GILLESPIE BIRNEY.

~~~~~  
BY BERIAH GREEN.  
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UTICA, N. Y.

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## P R E F A C E .

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The record of a good man's life naturally bears the aspect of eulogy. It is his prerogative to bless—his privilege to be blessed. The following facts from the history, and paragraphs from the writings, of Mr. Birney fully justify the estimate, given in these pages, of his character. The study of such a subject is both instructive and delightful. May it prove as deeply so to the reader as it has been to the writer. When as a People, we discover where are our men of Wisdom and Strength; when we learn to repeat their names with the confidence and veneration, to which they are entitled; when we welcome them to their proper places amidst the relations and responsibilities of life, the evils, multiplied and frightful, which now stare us in the face, will retire. Our condition and prospects will then be worthy of our privileges. Will not every reader contribute his share towards such a consummation?

B. G.

WHITESTOWN, *July*, 1844.



## LIFE OF JAMES G. BIRNEY.

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Faith and works—the ideal and the actual—theory and practice—things, which God hath joined together, different men in various ways try to put asunder. Some there are, who under this or that relation—in certain spheres of responsibility, seem to be exclusively engrossed with the ideal. The world, so far as human agency is concerned, is, they see, ill governed. Selfishness is made the basis of institutions and arrangements, maintained professedly for the benefit of mankind. Hence, the disorder, confusion and misery, which every where prevail. They are sick of these things—they are eager to get away from them. The folly, in which things so hateful and destructive had their origin, they regard as too rank and inveterate to be subdued. They have no heart to attempt a reformation. Why should they? Their exertions will be fruitless. The old world must wag on in its own chosen way, and get to perdition as best it can. As little as possible will they have to do with its ecclesiastical, political, and economical concerns. They are above all these. Their home is the spiritual sphere, where they find support, refreshment and delight in the ideas which shine upon their consciousness—in the principles which demand their allegiance. Hence, say in the sphere of politics, they decry and abjure all those arrangements, in which human rights and obligations are professedly described and asserted—in which the general welfare is professedly subserved. Human governments they pronounce an abuse, a usurpation, a nuisance. Of course, they trample on the elective franchise, and stand aloof from the ballot-box. The ethereal government, which they profess to reverence, needs, they say, no visible tokens—no symbols of its presence, authority, designs.—Others might consent to vote, if the ballot-box would come to them. In the work of electing rulers, they will not take a step, or lift a finger. In such matters it is their privilege to be indifferent; waiting for Heaven to correct the disorders and remove the



evils, which they profess to deplore as much as any body.—Others go to the ballot-box, and cast their votes for Justice, or Freedom, or Equity. When the chair of the Governor, the seat of the Senator, the bench of the Judge, is to be filled, they are for these divine ideas, pure, naked, disembodied. It is not known that they attempt to employ these ideas in blacking their boots, mending their stockings, or cooking their dinners.

Surely mankind were sent hither on another and a higher errand than to be occupied exclusively with the ideal. This is indeed ever to be present to their thoughts, distinct in their consciousness, warm on their hearts. Without this they are blind and impotent. Without faith, they can neither please God, nor bless mankind. But faith without works—what can that avail? It must be for ever fruitless. Our business in this world is, amidst the various relations we sustain, to translate the ideal into the actual—to reduce theory to practice—to show our faith by our works. It will not do, amidst the realities of life, to set up Justice, Freedom, Equity, as candidates for office. These must be embodied in human forms. We must have just, free, magnanimous MEN, to wield the powers of government. This institution must be adapted to the condition in which we here are placed. We must see to it that the ideal live in the actual—that faith be embodied in works.

But when in the political sphere it is insisted on, that in candidates for office sound principles shall be embodied in their characters; that they shall not only speak eloquently, but act wisely; that the logic on their lips shall be made impressive and conclusive by the integrity of their lives; that they shall show their love of freedom, not merely by impassioned declamation in exposing the wrongs of Greeks and Poles, but especially by asserting the rights and promoting the welfare of the oppressed around them, what a hue and cry is raised! A motley multitude rush around you, and shout, some one thing, and some another. Amidst the voices which are scattered in confusion on the air, words like these fall upon your ear: Your theory may be good, but can not be reduced to practice. You go too far in asserting the claims of Justice and Humanity. Here, to demand too much is to gain nothing. In such a world as this, where selfishness is the proper basis of society, we must be content to choose the least of the acknowledged evils to which we are exposed. The meaning of all this in plain English is, that this is the Devil's world, and we must submit to his

authority, or go to wreck and ruin ! Hence the blind and impotent are chosen to guide and protect ; those who can not govern their own passions, to govern the republic ; knaves, to assert the claims of justice ; bad men, to perform good actions ; oppressors to defend the cause of freedom. To such lengths are matters carried in this direction, that integrity, magnanimity, philanthropy, are but too generally regarded as quite out of place in the sphere of politics. Such words may be employed to catch the public ear ; to round off a period in a stump oration ; to cover up the most nefarious designs. But to insist, that without the imperishable qualities which these words describe, no man is qualified to wield official power ; this is generally reckoned the height of fanaticism. Indeed, it has come to that, that politics, even by those who are most devoted to such things, are regarded as a vulgar and filthy concern. Hence, they exert themselves to dissuade every honest man from attempting to maintain sound principles in this sphere of responsibility, by cautioning him to beware how he *dabbles in the dirty waters of politics*. And this they do under the same impulse as led the Gadarenes to try to get rid of the Savior's presence. How could their evil-doings bear the light of His countenance ?

Surely the occasion for a third party in politics is sufficiently obvious and stirring. The necessities which demand it reach down to the very foundations of Human Nature, and are as imperious as the authority of Heaven. Unless, by some means or other, the claims of truth, justice, freedom, could be clearly explained, strongly asserted, and resolutely maintained, we must, as a nation, soon be utterly undone. HENCE THE LIBERTY PARTY.

For a candidate for office, the Liberty Party must have one whose character is formed on the model of their principles. He must be an incarnation of the truths which are the basis of their enterprise. They must animate his spirit, and shine through his countenance. He must give them form, and life, and expression. Through him their healthful influence must be exerted on every fit occasion. It is for the Liberty Party within the sphere of politics, to maintain the cause of justice, humanity and freedom. He, their candidate, then, must be just, manly, free ;—must have acquired self-possession and inward harmony ;—justice, humanity, freedom, with these, as the breath of the Almighty, he must be inspired :—they must be the soul of his soul, the life of his life, the secret of his strength, or he can do little for the

Liberty Party. *True to their responsibilities, the Liberty Party have with great wisdom selected JAMES G. BIRNEY as their candidate for President of the United States.*

Mr. Birney is about fifty years of age—in the full maturity of his powers. He was born in 1793, in Danville, Kentucky; in a country equally beautiful and fertile. His father was a native of Ireland, strongly marked by the characteristic qualities of his countrymen. Prompt, ardent, enterprising; full of generous impulses; easily excited; strong in his attachments, and quick in his resentments; frank, bold, vehement, he rose by wakeful and unwearied industry in the sphere of business from one position to another, till he took a high place among the men of wealth around him. A deep interest he took in the institutions and arrangements and prospects of his adopted country;—in whatever belongs to the sphere of politics. He was an ardent admirer of patriotism, of which he thought the name of Washington a striking symbol. And the statesmen of the school which maintained doctrines and pursued measures in opposition to the opinions and practice of the Father of his Country, whom he so greatly venerated, he regarded with deep-toned antipathy.—Mr. Birney's mother is understood to have been a beautiful and accomplished lady, with rich gifts, improved and refined by elegant culture. Her maiden name was Reed. Her family were remarkable for rare intellectual endowments, and for the figure which they made, near the summit of society. She died when James was a child.

In his constitutional endowments, Mr. Birney seems to have been greatly blessed. Choice elements were here happily combined. His very being was strongly marked with the distinctive qualities and characteristic features of human nature. His great heart beat vigorously. He was full of life. His was a very liberal inheritance in the stuff, which MEN, true and strong, are made of. The elements of manliness were wrought into the very texture of his being.—He was a bright and beautiful boy, vigorous and active; upon whom surrounding objects made a deep impression. He was *alive*, in a world instinct with the breath and a-glow with the beauty of the Almighty. He early received upon him the impress of the truthfulness and dignity of Nature. Hence he was frank, truthful, manly. Falsehood, meanness, oppression—these things his young heart abhorred. His friends remember how valiantly, even when a school-boy, he struggled against tyranny, and how boldly he would tell the truth, even when it exposed him, as expose him it did

repeatedly, to the rod of chastisement.—For it is not to be inferred from the hints now given, descriptive of Mr. Birney's native character, that the blood of fallen Adam did not flow in his veins. Generosity, truth, justice, courage; by these things was his very being strongly marked. An air of nobleness and grandeur was breathed around his very cradle. But these words, as applied to him, describe him not as absolutely conformed to the model on which human nature was originally constructed, but as compared with mankind at large. One perfect Man, and one only, has appeared since the great apostasy. When young, Mr. Birney was exposed, susceptible as he was, to influences which were too well adapted to give the animal within him the ascendancy over the spiritual. Wealth, fashion, luxury—how without a living faith in the Savior could he withstand their fascinations? And he was not yet a Christian. His course was all along marked by those freaks and follies and excesses which might fairly be expected in a generous youth, well supplied with money, in the midst of boon companions, and without those powerful restraints and that healthful control, which the Gospel only can supply. But what in justice to the Hand that fashioned him is to be gratefully recorded, is, that his magnanimity, truthfulness, love of justice, courage, never, even amidst the irregularities of youth, forsook him. And these things were the basis on which Christianity has reared the well-proportioned, compact, beautiful structure, which it is our privilege now to describe.

Of the natural courage, resolution and fidelity of Mr. Birney, we have a striking instance in his early history. At the age of thirteen, he went with two other boys, one a cousin, to a piece of deep water, to amuse themselves with swimming. Birney was a good swimmer, his cousin merely a beginner. At a distance from the shore, a rail was set up on end, on whose top, a number of feet beneath the surface, one might pause and rest. Here Birney took his stand, and invited his cousin to come to him. That he undertook to do. As he approached, Birney left the rail for him to occupy. But, wearied with the effort, he found it difficult to fasten on the resting place. Full of alarm, he seized on Birney, and down they went once, and down they went again. Their companion, still standing on the shore, shouted to Birney to let his cousin go, and take care of himself. Instead of this, he encouraged and assisted him, till his feet were planted on the rail. He now swam around him, cheering and supporting him, till his friend acquired self-possession. He then set off, and swam



ashore. Referring to the advice which his companion so earnestly gave him, to abandon his cousin for the sake of saving himself, he quietly observed: IT NEVER ENTERED INTO MY MIND TO DO SO. The boy, who thus, in despite of the solicitations of a cold, calculating prudence, at the hazard of his life rescued his friend from a watery grave, must have had in him the elements of true greatness.

Mr. Birney early enjoyed the benefit of a liberal education. At Nassau Hall, New Jersey, he was greatly distinguished for the success with which he pursued his studies, where he was graduated in 1810, at the age of 17. After spending about two years in Kentucky, he went to Philadelphia, where he entered the law office of Mr. Dallas. He returned to his native State, in the spring of 1814. Soon after, he was chosen a member of the Legislature, where, young as he was, he exerted his powers as a public speaker with considerable effect. About this time, he married a young lady of strong attractions, who was akin to some of the most distinguished names in American history. At about the age of 25, he removed to Alabama. Here, for some five years, he was a planter, surrounded by some five and thirty slaves. From his plantation he removed to Huntsville and resumed the practice of the law. His views of slavery at this time did not materially differ from those which prevailed around him. The relation which is founded on the chattel principle, he did not then condemn. His slaves, a small number excepted, he sold to a neighboring planter, who had the reputation of a humane master. After fixing his residence at Huntsville, he was presently chosen solicitor for the Judicial Circuit in which he lived—an office full of responsibility, and demanding no common measure of integrity, resolution and courage. We have proofs, various and delightful, that he honored his responsibilities—that his course was strongly marked by vigor, impartiality and magnanimity. His diligence, fidelity and intrepidity were crowned with marked results. His exertions in his proper sphere were rewarded with success. He rose high in the general estimation. Business beyond the sphere of criminal law flowed in upon him apace. The demands which were made upon him in civil processes, were at length too numerous and pressing to permit him to retain his office as solicitor. From this it may be inferred how lucrative and honorable his practice must have been. Near the close of his residence in Alabama, Mr. Birney was chosen to a seat in the Legislature.

A single fact from the history of Mr. Birney's professional career in Alabama, illustrating his integrity, courage, magnanimity and generosity, may be as acceptable to our readers as it is refreshing to us. The following statement, from authority on which the fullest reliance may be placed, we give in the language, slightly altered, of our informant. Jackson county lay in his circuit. Three years' practice there as solicitor had made him acquainted with nearly all the people of the county. He was personally popular, though as prosecutor, he had acted rigorously. The making of counterfeit coin had become quite a business in that county, after he had resigned his office as solicitor. One day, a young man of very humble and rough appearance applied to him at Huntsville, where his office was, to bring a suit for him against some of the most respectable men in the county, for having lynched him on suspicion of his having aided his father, who *was* a notorious coiner, and who as such had also been lynched. Between eight and nine hundred of the people of the county, embracing most of the influential men, had associated together as a lynch club; and such was their power, that they inflicted punishments openly—knowing that no verdict could be had against them in Jackson county, where they would be sure to get some of their own friends upon the jury, if they failed to intimidate those whom they had injured. It was hinted to him, that unless his cause was just, and himself free from the stains of a bad character, it must be far from desirable to engage for him in a struggle with such an influential corps. Satisfied in this respect, Mr. Birney undertook for him, and issued his writs against the wealthiest and most responsible men in the band, all of whom were personally his friends.—It had been his custom, in order to avoid traveling on Sunday to the court-house, as was the custom of his brother lawyers, to go to the village where the court was held, the *Saturday* before. He had, of course, to travel alone. It was given out that he durst not go to the court-house—that he would be lynched, and so on. He proceeded, however, as if nothing unusual had happened. Within a few miles of the village, he met a man, who was very anxious that he should return and stay with him till Monday, when the Judge, and the officers of the court, would be in the village. His exposure, then, would be less fearful. He went on, however, and put up at the tavern where he usually boarded. On the Sabbath he was at church; and on Monday went about his business as usual, saluted even those whom he had sued,

quietly, and in full self-possession, as if nothing had happened. Each wondered that all except himself did not insult him. But they were confident that no jury could be found in that county, from which he could obtain a verdict. This he understood as well as they. He had therefore, made provision, through which the cause was to be tried in due season at Huntsville, the place of his residence. *Before he left, however, he brought the defendants to terms agreeable to his client ; pecuniary remuneration was made for the trespass ; and an agreement was entered into by them never more to molest him. The lynching business was broken up for that time,* AND THE ASSOCIATION DISSOLVED.

During his residence at Huntsville, the attention of Mr. Birney was fixed upon the truths of the Gospel, especially in their application to himself—to his own condition and prospects. The method of salvation provided in the Gospel, he clearly saw his need of—heartily welcomed. He made a profession of religion ; and with deep sincerity and great earnestness entered on a course of Christian activity. How he could any longer continue to be a slaveholder, is a fair question, on which many things might be offered. In no case can such a thing be justified. The relation in itself, whatever its origin and however continued, and in all its bearings, tendencies and effects, involves a manifest and flagrant invasion of the dearest rights of Human Nature. It inflicts the deadliest injuries on all who give it their countenance and support. What other fruits could it be expected to bring forth, opposed as it is to the fundamental principles of a sound morality—to the leading maxims and characteristic truths of the Gospel ? And yet the Christianity which prevails in our country regards it with great indulgence, if not with secret complacency. Great numbers among us, and of these not a few religious teachers, assert with one breath that slavery is every way a great evil, and in the next that the Bible gives it countenance ! Though condemned by the laws which are inscribed upon the human heart, they alledge that it is consistent with the doctrines and precepts of the Savior. Not a few eagerly fasten on the inference that they may be true Christians and yet hold slaves ! Accordingly, in the leading denominations in our country, slaveholders are welcomed to the churches, and often occupy high positions there. In all this, violence is done to the elemental principles of the human constitution. The demands of Justice, asserted in the depths of our being with a God's voice, are contemned. Every thing noble,

generous, manly, within us, is wantonly sacrificed. How can such a matter bear inquiry and discussion? Amidst the facts of history, in the light of Reason, it stands exposed, condemned, abhorred. Concealment then must be practiced, inquiry discouraged, silence enjoined. And if now and then, amidst the enormities of slavery, attention should be arrested and speech extorted, every body is expected to look squint-eyedly, and speak with a double tongue. The result of all this is gross and wide-spread ignorance, whence, as weeds from a dunghill, the most noxious errors and hateful habits proceed. Trained up in such circumstances, and under such influences, what less could be expected than that any human being would be the victim of unworthy prejudices—would survey the objects around him, through a distorting medium—would embrace conclusions equally false and hurtful? And could a Christianity which had adjusted itself to slavery be expected to bring deliverance? Now and then, as in the case of Mr. Birney, a mutilated Gospel may be the *occasion* of results which it is not adapted to produce. It may bring within the range of one's vision, truths which, in despite of the glosses whereby it would neutralize their power, may at length produce their appropriate effects: especially at a time when influences from abroad, in behalf of truth, righteousness and freedom, in opposition to American slavery, began to be exerted with considerable effect.

With his great heart, with his love of truth, with his extraordinary candor, Mr. Birney might well be expected to take the condition and claims of the slave into earnest consideration. The wrongs which our countrymen inflicted on the Indians had deeply affected him. He mourned over the violation of public faith, which in its relation to that unhappy people, the republic had made itself guilty of. Such wickedness, such folly, such infamy—such plague-spots upon the body politic, filled him with sorrow and indignation. In this case, he poured out his heart into the bosoms of his countrymen, in behalf of outraged Humanity.

His views and feelings on this subject may be inferred from the following paragraph of his, in which, it will be seen, he compares the argument whereby the colored American was to be persuaded to go to Africa, with that by which the Indian was to be induced to abandon the sepulchres of his fathers for a *home* beyond the Mississippi. "I am here reminded of the very great resemblance this case bears, in its most prominent features, to that of the Indians, who have been moved upon, in nearly the same manner, to 'consent'



to leave their lands within the limits of several of the States. To these unhappy people—unhappy because cruelly treated by those upon whom they, as children, cast themselves for protection—it was urged, that the encroachments and lawlessness of the whites would render their situation, whilst they remained near them, too grievous to be borne—that they would be far happier, when separated from us, in a country entirely under their own control—and in conclusion, that this advice was dictated *by humanity—by a pure regard for their welfare*. What was the Indian's reply? "'Tis true, our situation, owing to the causes you have mentioned, is bad enough, but is it not made so by your negligence of right, and disregard of the most solemn stipulations? Will you, by your injustice—your fraud—your force, *create* the necessity which makes it expedient for us to remove to a wilderness, and then, by persuading us to fly from its destructive influence, claim the praises of philanthropy and humanity? Strange reasoning this!—since it leads to the conclusion that the greater your frauds the louder will be the plaudits you will gather for *good will* to the poor Indian. Where are your treaties, by which you are solemnly bound, before God and the world, to conduct yourselves towards us, at least, with *justice*? Go tell your countrymen to restrain their avarice, withhold their force, repress their injustice—purify and elevate their morals, and not approach us with the disgusting skeleton of *policy*, decked out with the tawdry vestments of *humanity*. Away with your humanity that is based on selfishness, we'll none of it!"

Compassion, awakened by one object, readily embraces others. From the Indian to the Negro, the transition was easy and natural. From his very boyhood, Mr. Birney had felt himself armed against oppression. In their struggles with the strong, the weak had always counted upon his countenance and aid. The slave had a commanding place in his thoughts and sympathies. He could hardly fail to see, when the wrongs of the Indian had thoroughly aroused him, that the sufferings of the Negro flowed from the same bitter fountain. With renewed and increased earnestness, therefore, he applied himself to the subject of slavery.

He was for a while arrested in his progress towards just conclusions and healthful action, by the scheme of African Colonization. It was generally maintained, and that stoutly enough, that Immediate Emancipation must be fraught with many and frightful perils. Slavery was admitted to be an outrage on Human Nature; but then it would never do at

once to restore to the slave the rights to which he was inalienably entitled! What mischiefs, what crimes, what misery must be the inevitable consequence! If slavery was a great evil, its immediate abolition, it was asserted, must be a greater! And such words were upon the lips, not only of the thoughtless and profane, but also of professed saints and reputed prophets. Almost nobody dared to contradict them. But to expatriate the free negro to Africa:—could Benevolence in the name of Freedom hit upon a happier expedient? In this way, our debt to Africa might be liquidated. Her long lost sons, a nuisance here, would be a blessing there! Ignorant and degraded here, there they would be wise and honorable! No power could raise them here to the dignity of manhood; there they would spontaneously rise to the glory of saintship! Unworthy here to be door-keepers in the house of the Lord, there they would at once be welcomed to the Holy of Holies, as the anointed priests of Heaven! One class of our fellow citizens was incited to give this enterprise its countenance, under the pretense that it would facilitate the emancipation of the slaves, by providing the means of shipping them off before they had time to cut the throats of their masters. The coöperation of another was expected, on the ground that the removal of the free people of color would set slavery free from a powerfully disturbing force, to which it was exposed. And then the missionary tendencies of the scheme; could it once succeed, how soon would "Ethiopia stretch forth her hands unto God!" Vision after vision, resplendent with all the colors of the rainbow, animated the dreams of philanthropy. And James G. Birney, in common with many of our truest men, was for a time led astray by this glittering ignis-fatuus. And like an earnest man as he was, he vigorously pursued the phantom which, under the guise of an angel of light and love, was beckoning its followers on to an apparent Paradise, but to a real quagmire, gilded by dense fog.

So much in earnest was Mr. Birney in trying the virtues of this scheme for delivering our country from the evils of slavery, that he abandoned a profession equally lucrative and honorable, to prosecute an agency in its behalf. He exerted himself with resolution and fidelity to enlist the sympathies and coöperation of his countrymen, white and black, in favor of a design, which, he persuaded himself, was full of blessings, both for America and Africa. For this purpose, he visited the principal places in a large dis-

trict of country around him, embracing no less than five large States, and pursued the object to which he was devoted, with what was reckoned encouraging success. But as the result of more careful observation and deeper reflection, he became thoroughly convinced, that the scheme he was supporting lacked the basis of sound principle : that it was as impracticable in its application as it was hurtful in its tendencies. He could no longer lend it his countenance. His views on this subject are expressed with great beauty and power, in a Letter to the Rev. Mr. Mills, Corresponding Secretary of the Kentucky Colonization Society.

A few extracts here, we are sure, will be acceptable to our readers. In the following paragraph, he alludes with piercing pungency to the methods tried on the colored American, to *extort* his "*consent*" to abandon his native country for the shores of Africa. "If its operations be limited to the gratification of an intelligent wish, on the part of the free people of color, or any other class of our population, to remove to Africa, with the view of establishing a colony for the prosecution of an honest commerce, or for any lawful purpose whatever, there could exist, so far as I can see, no reasonable ground of opposition, any more than to the migration, that is now in progress, of crowds of our fellow citizens to Texas, or any other part of Mexico. If, on the other hand, it is meant, that this '*consent*' may lawfully be obtained by the imposition of civil disabilities, disfranchisement, exclusion from sympathy ; by making the free colored man the victim of a relentless proscription, prejudice and scorn ; by rejecting altogether his oath in courts of justice, thus leaving his property, his person, his wife, his children, and all that God has by his very constitution made dear to him, unprotected from the outrage and insult of every unfeeling tyrant, it becomes a solemn farce, it is the refinement of inhumanity, a mockery of all mercy, it is cruel, unmanly, and meriting the just indignation of every American, and the noble nation that bears his name. To say that the expression of '*consent*' thus extorted is the *approbation of the mind*, is as preposterous as to affirm that a man *consents* to surrender his purse, on the condition that you spare his life, or, to be transported to Botany Bay, when the hand of despotism is ready to stab him to the heart."

Again. "The influence of these principles is opposed to emancipation. I am not unaware that it has been supposed to be adjutory to emancipation ; and proof of this is offered

in the 800 or 900 slaves that have been transported to Liberia. The fact, that about this number have been emancipated by transportation to Africa, is admitted. These are *all* the instances of emancipation, that can be attributed to the influence of colonization principles—for when they insist that emancipation should never be divorced from deportation, they can not lay claim to the many thousands who are emancipated in this country, that they may, if they choose, remain here, and who have remained here. It would be an unfair pretension, to ascribe to the influence of certain principles, effects, which they have no natural and inherent tendency to produce. But it is very confidently believed and asserted, that the discussion of colonization throughout our country has, *incidentally*, brought up the subject of slavery to public consideration—and that to this are to be set down the numerous emancipations that have been granted, where the beneficiaries have not been sent out of the country. I grant, it is probable, that in this way many persons may have been led to see the duty of emancipation, who would not otherwise have been conducted to a knowledge of it. But would it not be altogether illogical to ascribe emancipations, *in the country*, to a principle that insisted upon emancipations, *out of the country*? Fully as much so, it seems to me, as to ascribe the conversion of a man to the Christian religion, to his having heard the ingenious arguments of an *infidel*—when, in truth, it may have been only the occasion upon which his mind discovered, for the first time, the weakness of infidelity, and the strength of the Gospel.

“But, sir, during all this time—these 16 or 17 years of gloom to the slave—what has not been lost to the cause of freedom and religion, by the substitution of a cowardly, *incidental* discussion of slavery, for one which is manly and undisguised? If the sly and incidental presentation of it produce the effects with which it is credited, how much more rich, blessed and abundant would they have been, had it been pressed openly and directly, yet kindly, upon the hearts and consciences and patriotism of this community! It is to be feared that we, who have been supporters of colonization, have, through ignorance, been instrumental in prolonging, at least through one lifetime, the dark reign of slavery on the earth, and in sending one generation of our fellow men, weeping witnesses of its bitterness, to a comfortless grave!

“So thorough has been the inoculation of the public with the sentiment, that our slaves, if emancipated, must be removed from the country, that its effects are of surprising



uniformity. Address men in this way—‘Do you not believe that slavery is *sinful*, and in direct opposition to the principles of our government?’ the reply—almost without exception—is, what shall we do with our slaves, if we manumit them? Where shall we send them? It will never do, in the world, for them to remain among us—it is better to retain them as they are, indefinitely in slavery, than to liberate them here! This feeling has led to cases of great apparent inhumanity and uncharitableness. One of these has come to my knowledge in so direct a manner, that I have no ground for doubting the truth of it in any particular. A person living in a slave State is the owner of a good-looking young man, who is permitted, on his parole of honor, to reside in Cincinnati—to receive the *hire* for his own services from the gentleman in whose employment he is—not in any part for his own use, but to be transmitted according to his [the slave’s] discretion to his owner. He has learned to read and write, and has given, *in his uniform conduct*, the *best* evidence that he is, in truth, as he professes to be, a *Christian*. He has never, in the least degree, violated his integrity toward his owner, by retaining any of the fruits of his own toil, or by asserting his liberty, as he might, at any time, do in Ohio. His friends and connections are all residents of this country. This circumstance, united to a very unfavorable opinion of the present condition and future prospects of Liberia, has made him entirely averse to a removal thither. He has a strong desire to obtain his freedom, and has offered for it a large sum. His offers have been steadily met by a refusal, *at any price*—yet he has been promised his liberty *gratuitously*, if he will ‘consent’ to emigrate to Liberia. To this he entertains an insurmountable repugnance—preferring to remain in his present condition, although his noble spirit is almost worn down with its hopelessness. Now, sir, were it not for the prevalent opinion, that the colored man, whatever may be his intellectual or moral elevation, can never be respectable or happy among us, I doubt whether such a case as this, calling for the deepest sympathy, the most earnest commiseration, could have been found in the private annals of western slavery. There is no country, in its best state, that would not suffer loss by the banishment of such a man.”

And then: “Colonization principles have in a great degree, paralyzed the power of the *truth*, and of the ministry in the South. That the messages of the Gospel have comparatively but little influence upon mind, in the exclusively planting sections of the country, where the number of slaves

is great, will not be denied by any impartial and considerate observer. This I am not inclined to attribute to any defect in the inherent power of the great truths—as applicable to *southern* mind—adapted by God so wisely to the internal constitution of man. For there have been, and there are yet, daily overturned by them, sins as besetting and as soul-destroying, as slavery. When I recollect, too, the condition of the Roman Empire, at the time when Paul preached in her voluptuous metropolis, and throughout her scarcely less voluptuous tetrarchies: the aggravated system of slavery that prevailed there—the incontinence—the political corruption—the private vice—and that over all these Christianity chanted her mild triumphs, I see no reason for distrusting her efficacy, when fairly tried upon any portion of our countrymen. But when I further remember, that he was partaker in no vicious custom of the country, leading him to perpetrate injustice and to overlook mercy; that whatever impurity might be demanded by social manners, or authorized by municipal institutions, *he kept himself pure*; that, when thrown into the very midnight of Roman pollution, his *Christianity* was seen, emitting a clearer, purer, and more quenchless lustre—the secret of his success is fully revealed. Behold, at the present time, a professed follower of Paul and of his Master—blessed, perhaps, with a sound education in letters and science—versed in Christian lore—brought up in the land of the *free*! with a mind revolting against slavery and every form of oppression; see him, making his way to the South, ready with the fervor of a neophyte, to declare the messages of God's love to *all* for whom they were intended;—see him, almost as soon as the introduction to the scene of action is past, beginning his labor of love by utterly neglecting 'to preach the Gospel to the poor'—by lamenting the hard lot of *masters*, the *evil* of slavery—complaining of the wickedness of the slaves—excusing every thing in the slaveholder, except acts of cruelty that rouse a neighborhood to astonishment; *next*, marrying a widow, or a ward, or a '*fortune*,' with a retinue of his parishioners for her dowry; *afterward*, talking bravely of the price of cotton, and of *men* to make it; and, *at last*, in desperation, *drumming* into silence his agonizing and wailing conscience by using the very book of *God's love* to justify *man's oppression*;—seeing all this, the secret of *his* unsuccessfulness is made as clear as noon-day. Slavery has shorn him of his strength, and his hands are as indolent and uncertain in pointing out the way of life—if they

point at all—as are the hands of a chronometer to point out the progress of time during the last half hour, previously to its running down.

“I am altogether unconscious of any feeling which would prompt me to utter an unkind word against ministers of the Gospel in the South. There are amongst them, I know, men of the most sterling principle—who, so far as they are individually concerned, have lived, and are yet living, elevated far above the pestilential influence of slavery. To such, in my apprehension, the most disinterested witnesses—I appeal for testimony in the case; and ask, if the marriages of poor ministers with widows *rich in slaves* have not become so frequent as to take away from them their ‘casual,’ or ‘accidental’ character—if they have not brought a deep reproach upon the cause of religion,—and if those gentlemen who have thus entangled themselves in the meshes of slavery, are not looked upon by the very people to whom they were sent, and who are in the same condemnation, as ‘blind watchmen, dumb dogs that can not bark, sleeping, lying down to slumber?’ And further, whether those gentlemen, who, on the rare occasions of their preaching, rebuke with all authority the profanation of the Sabbath—the love of money, luxury, profanity, intemperance, &c. &c.—who have been heard to pray with all fervor for the Poles, the Greeks, and all the down-trodden of *foreign lands*, have ever been heard, in any of their public ministrations, to prefer but one listless prayer for the conversion of the slaveholder to the doing of justice—his heart to the love of mercy, and that the two millions of his ‘neighbors’ lying in bondage before his eyes, might, by the force of Christian principle be enlarged, and the oppressed *among us* go free? And, yet further, are not such slaveholding ministers somewhat warmer in their attachment to colonization, than the majority of other men? Do not they insist upon its capacity for the extermination of slavery, as a reason why they do not themselves act more decisively upon the subject? and do they not in frequent instances, become angry and indignant at those who attempt to agitate their consciences, by holding up their own duty in reference to slavery, *right before them?*”

And here again: “Dr. Finley doubtless intended by his scheme, the permanent benefit and exaltation of the whole class of free colored people. If so, he was led into the error into which, I think, he fell, by contemplating, with great intensity of feeling, nothing but the down-trodden state of that people among us—throwing altogether out of the

range of his vision the causes which produced it, and forgetting the energy of those great principles, asserted first by this nation, and even yet received by a great majority of it as *undeniable and self-evident*, and which might still be plucked from their drowning state, for its fuller melioration and correction, *here*. He supposed it was easier to remove from the country those who were the subjects of this degradation, than to successfully combat and overthrow the prejudices and false principles which produced it. He fell into a similar mistake with those who think that slavery can be exterminated by transporting to another country such of the slaves as may be liberated among us, without having first given the death-blow to slavery, *itself the producing principle*,—and forgetting that the few who would be emancipated, under such circumstances, would be only the *superfluity* occasioned by the generative power of the principle, and their abstraction but lopping off the dead and unsightly branches of *Upas*, and giving to it more comeliness and vigor.

“Had he been in Turkey, and seen some thousands of Christians in the same condition as that occupied by the free colored people in the United States, rearing their families under all the oppressions of that government, as they are exercised upon those who are even nominally Christians, it would have been an act of benevolence to persuade them to remove—albeit, to a wild and unsettled coast—and of still greater benevolence, to have provided the means for their transportation. Why? because neither the *government* of Turkey, nor the *moral structure of Turkish society* contains in it any principle acknowledged by all to be ‘undeniable,’ ‘self-evident,’—which could be held up and urged and traced in its consequences, before the people and those in power, of sufficient efficacy to condemn their practice. They are both constituted upon the principle, that it is *right* to persecute a ‘christian dog’—to kick him, spit upon, deny him all legal privileges, and if he gives any, the slightest provocation, to *bowstring* him. Under such circumstances—where neither *the government* nor *public sentiment* acknowledge any principle sanitary and corrective of oppression—efforts tending to any other object than the removal of the oppressed from the scene of their sufferings, would justly be deemed enthusiastic and absurd.

“But how widely different is the case here! Does the advocate of slavery assert that it is *right* to oppress a fellow creature, because God has given him a complexion unlike what he has bestowed upon us?—to subject him to all the



*weight* of the law, whilst there is wrested from him all its *power* for his protection? Does the slaveholder say it is *right* that slavery, with all its soul-killing enormities, as well as with its lesser evils, should be continued? To meet this, with what powerful armor has God clothed the American patriot and Christian! Shall he consent to extinguish slavery, by removing its *redundancy*?—a process that may be carried on for a hundred years, and, then, leave our 'last state worse than the first.' Or to compass sea and land, that he may find some hole or corner for the thrusting away of the free colored man, sad, sick at heart, by reason of oppression?—that the slaveholder may repose in all the voluptuousness of the most undisturbed quiet? Or shall he not rather raise the slaveholder's earth-directed vision to the clear arch of the sky, and bid him there read words that are eternal in the heavens, '*whatsoever ye would that men should do unto you, do you even so unto them,*' with its noble commentary, '*all men are created equal, and have rights that are inalienable, to life, liberty and the pursuit of happiness?*' Shall he not rely upon the salutary operation of great principles sanctioned by God, and declared by man to be '*undeniable*;' that are of sufficient efficacy, wherever they are ably and honestly urged, for the reformation of every unjust and pernicious usage in the land—rather than upon some poor shift, some conscience-calming expedient for the present exigency, whilst future exigencies—going into eternity, it may be—to which it is totally inadequate, are left entirely unprovided for."

"But it was not long before the benevolent object of Dr. Finley was greatly perverted, and the benefit that was intended for the free colored man—his chief aim was made secondary to the *policy* of sending him away. At first, the apparent benevolence of the enterprise moved the spirits of some of the free people of color, and not a few of them, were preparing, doubtless, as true heralds of the cross, to bless benighted Africa. Emigrants offered themselves in greater numbers than the means of the Society were competent to send out. Seeing this, the *philanthropy* of the enterprising was thrown somewhat in the background, or became, with many, merely auxiliary to the *policy* of sending out of the country the whole of the free colored population. In this way, it was recommended to the most determined slaveholder. He was reminded that the free colored man was a nuisance to the white—a source, almost the only one, of disquiet and discontent to the slave,—that he was bound-

lessly degraded and vicious, polluted and polluting all around him,—and, that the fact of its being so might always remain as strong as it *then* was for sustaining such an *argument*, it was asserted with ceaseless repetition, that in this degraded state he must continue as long as he resided among us—that *here* his condition was irretrievable, hopeless, in fine, it was an ordination of Providence! All this was surmounted by *paens* to our humanity. And the free colored man, for *his* encouragement was told, that the whole field of honorable ambition lay open before him; that he might, in the land of his fathers, engage in the high offices of legislation—in the solemn ministrations of the altar—and in laying the foundation of a great people, a mighty Christian nation, before whose feet the countless idolatries of Africa's unnumbered tribes would fall in ruins to the ground.

“All this sounds well—but it will be found, on examination, to contain principles at variance with each other, and mutually destructive. Let us suppose these motives to be addressed to an intelligent free man of color, would not his train of reflections, most probably be somewhat of this kind? ‘I belong, then, to a class which the white man declares to be a *nuisance*. If this is true, what has produced it? His own conduct. What has this been but a course of systematic neglect, contempt, abuse—withholding from us every franchise and immunity of the government, whose tendency, he says, is to elevate and ennoble those who exercise them? We were thrown out from the charnel-house of slavery, ignorant, unconscious of the want, unable to appreciate the advantages of education—our families cut off from all associates, except the degraded slave, or the polluted and polluting white:—and what has been done for us? Whilst the white man has established, at great expense of life and treasure, schools for the Caffre and Hottentots—for the Indian of Ceylon and the negro of New Zealand; whilst he has his missionary, on the one hand, plying with untiring step his course to the summit of the Rocky Mountains, and, on the other, scaling the wall of China, to declare that Truth which makes men ‘free indeed’—what has he done, what is he doing, for the class, whose ignorance and error must be daily witnessed, and whose wants must be fully known? Nothing, nothing, nothing. What confidence, then, can I properly repose in a benevolence acting only *afar off*, whilst it neglects so much *at hand*—in that charity which will dispatch a band of missionaries to *Africa*, whilst it will not supply one to her sons *here*, though fainting—perishing for

the bread of life? In what manner am I to estimate the sincerity of men—aye, of *Christian* men too—who, in one breath, tell me, their prejudices against us, whilst *here*, are insurmountable, but that they vanish when we are removed from them some six or seven thousand miles—that whilst we remain here, *religion* itself is incompetent to destroy them—but that when it acts across an ocean, it possesses wondrous, overmastering potency, for their extirpation: who say, that *here*, under the restraints of wholesome laws, with the presence of the whites to check and control us, we are utterly unfit, because of our moral and intellectual depravity, for the enjoyment of the lowest privilege—yet, forsooth, would fling us, with all our stupidity, our inexperience, our vileness and infamy, in one unbroken and reeking mass, upon a distant land,—unchecked by wholesome laws, or animated by virtuous example—to do what? To carry on a system of piracy?—of robbery?—or to establish a *factory* for conducting a commerce in the blood and gore, and groans of our fellow men? No: it is not in these occupations we are to be employed, and for which, it would seem, *our benefactors being witnesses*, we are well fitted, but it is—O wonderful adaptation! to Christianize and civilize one hundred millions of heathen!!

“Again—if we are a nuisance *now*, by what necessity are we always to remain so? Are we incapable of improvement—impenetrable to those great truths by which man’s mind is enlightened—his heart purified, and he made a *freeman indeed*? This can not be asserted without impugning God’s word. What, then, will make up this everlasting pressure? *Prejudice, prejudice*—so proclaimed ‘before all Israel, and before the Sun!’ We have none against the whites. Deeply injured, neglected, vilified, as we have been, we are willing to pass it all by, take a lowly station, and cheerfully acknowledge their superiority. But how is this temper reciprocated? By still accumulating abuse. They say of us, as a class, we are diseased, sick, ready to die, and yet, by emigration to Liberia would they suck from us the most healthful blood that circulates in our system. They declare by their *language*—by their *laws*, an inflexible purpose to grant no mitigation of our ills, unless we respond harmoniously to their *policy* in sending us away. How then can we, in a matter so important to us—so far from our homes—so irremediable, if it fail, trust to those whose rigor of temper no persuasion can soften—whose selfish *policy* is the *substance*, *our good* but the *accident*?



“‘But further, why are we spoken of as a *class*? why do they throw together the good, the bad, the indifferent, and make of them one mass, baptized by the name of *nuisance*, when they deal not thus with other men? I do not perceive that men of black hair and of light-colored hair—of black eyes and blue eyes—of low stature and high stature, are spoken of in *classes*, to which any moral or intellectual designation is given. No: each one is judged by his own merits—nor are they mixed up with the vices and demerits of others, to make a foul and unsightly lump. This common-sense and common-charity measure of judgment and treatment is all that I have a right to ask, it is all I desire, and *justice* can not withhold it.

“‘But more than all, we are especially obnoxious to the slaveholder. Here is the spring of all this preparation. My fellow man is in bondage—the sight of a freeman of his own color released from chains will make the slave more restless under *his*; and the slaveholder, with his hand on the throat of my father, my brother, my sister or my mother, must, by all means, be kept tranquil and undisturbed—his property in man must be untouched, whilst *he* is robbing him of the use of the limbs and muscles that God gave, and of the daily products of their toil. And this is the sum and substance of this mighty charity! We are to be driven from the country as a *nuisance*—we are to be persuaded by unceasing reiteration, that such we are *now*, and so we must remain, *to all*,—but especially to the unrelenting slaveholder.’ ‘O my soul, come not thou into their secret—unto their assembly, mine honor, be not thou united!’”

“But, sir, has it ever been known that *commercial* establishments have proved to be sources of religious knowledge and improvement to the heathen, among whom they have been placed? The colony of Liberia is emphatically one of this character—there exists in it, according to all accounts, a rage for trade. Let us recur for a moment to the history of religious efforts among our neighboring Indians. Who, amongst us, would ever think of encouraging a *trading station*, or *company of petty shop-keepers*, (such as could be induced to emigrate for *gain*) and upholding them, as the best means of diffusing a knowledge of Christianity among the Indians, as *missionary stations*!! I will venture to say that among the greatest obstacles the *true missionary* has to encounter in recommending ‘Christ’ to our aboriginal natives, is the influence, direct and indirect, of such establishments. When we consider *their object*, we can not be at a loss, for



an instant, to arrive at this conclusion. It is to *supply the wants of savage life, but more especially the PECULIAR WANTS of savage life.*

“ These peculiar wants are trinkets, baubles, beads, tobacco, ardent spirits, fire-arms, powder and ball. It is the gratification of these wants that gives vitality, and their growth that gives encouragement to the trading stations. Now, so long as these peculiar wants exist, *savageism* must continue—so long as they grow, it must also be growing more rude and untameable. So superficial is this truth, that no missionary station, so far as I am informed, has ever been supplied with any of the articles mentioned above, calculated to keep alive savage customs. What is the first work of the missionary? Is it not to allure to peace, to *stationary* life, and habits of settled industry? If he succeed, he puts an end, in proportion to his success, to the sale of arms, powder and ball, whether they be intended to kill men, or for hunting. If he inculcate abstinence from the use of ardent spirits, he is brought directly in collision with the interest of the trader. Should he be blessed in his honest labors for the amelioration of savage life, it must be almost entirely by the annihilation of the trader's occupation. It would seem strange, then, that with experienced persons, there should, after twelve years' disastrous trial, too, at Liberia, exist such pertinacity in insisting upon the practicability of uniting the trader and missionary—and that there should still be indulged such bloated expectations of good to the heathen of Africa, from the instrumentality of men who go out, [if *preachers*, so much the worse,] with fire-arms, powder and ball, and rum, in one hand, and the Bible in the other.”

Thus beautifully and impressively Mr. Birney concludes this letter: “ Permit me, in conclusion to say, that the views submitted in this communication, are entertained after long and very circumspect examination of the main subject to which they apply. Born in the midst of a slaveholding community—accustomed to the services of slaves from my infancy—reared under an exposure to all the prejudices that slavery begets—and being myself, heretofore, from early life, a slaveholder—my efforts at mental liberation were commenced in the very lowest and grossest atmosphere. Fearing the reality, as well as the imputation of enthusiasm—each ascent that my mind made to a higher and purer moral and intellectual region, I used as a *stand-point* to survey deliberately all the tract I had left. When I remember

how calmly and dispassionately my mind has proceeded from one truth connected with this subject, to another still higher—that the opinions I have embraced, are those to which such minds and hearts as Wilberforce's and Clarkson's yielded their full assent—that they are the opinions of the *disinterested* and excellent of our own country; I feel well satisfied that my conclusions are not the fruits of enthusiasm. When I recur to my own observation, through a life already of more than forty years—of the anti-republican tendencies of slavery—and take up our most solemn State paper, and there see that ‘all men are created equal, and have a right that is inalienable to life, liberty, and the pursuit of happiness;’ I feel a settled conviction of mind that *slavery, as it exists among us*, is opposed to the very essence of our government—and that by prolonging it, we are *living down* the foundation-principles of our happy institutions. When I take up the Book of God's love, and there read, ‘whatsoever ye would that men should do unto you, do ye even so to them,’—my conviction is not less thorough, that slavery *now* is sinful in his sight.

“But one word more. The views contained in this letter are my own, and they have been the result of my own reading, observation and thought. I am a member of no anti-slavery society—nor have I any acquaintance, either personally or by literary correspondence, with any of the northern abolitionists.—No one, besides myself, is committed by any thing I have said.”

After breaking through the meshes of this popular delusion, the attention of Mr. Birney was fixed more earnestly than ever on the subject of emancipation. His mind was for some time occupied with some plan for gradually restoring to the slaves the freedom of which they had been so cruelly deprived. With this, however, he was not long embarrassed. He saw clearly enough, that in this way the oppressor could not be led to repentance—could not be induced to break the yoke he had fastened upon the neck of his unoffending brother.

In a paper containing “the reply of Mr. Birney to queries of some Friends” in 1835, appears the following paragraph on this subject: “I consider all schemes of gradual emancipation as utterly unfit to meet the present evils, and to avert the dangers which threaten from the continued existence of slavery. They are all, in the first place, imperative on the *master*—they let go his conscience, by not insisting on immediate repentance for present sin. In the second

place, they produce no good effect on the heart and mind of the *slave*. Founded on expediency, or policy, as all such plans must be, from their very nature, the slave will feel no respect for the motive which originates them. He will consider that nothing has been done from a regard to *his* rights, or *his* interests, but all for the advantage and benefit of the master. The master, uninfluenced by Christian principle, in the act of emancipation, would not, in all probability, follow his *freedman* with Christian effort for his moral and intellectual improvement—the freedman, feeling no respect for the motives of the master in giving him his liberty, would naturally, as it appears to me, reject his influence. Thus they would be left unbound by any tie that would lead to continued kindness on the one side, and respect and grateful recollections on the other. Any plan of emancipation, however gradual it might be, would be better than perpetual slavery; but surely it is the great desideratum of any plan, that it leave the parties *friends*, as *freemen*. None will effect this, which is not founded on Christian principle—and there can be none, so far as I am enabled to see, which so fully recognizes Christian principle as its basis, as that which urges *immediate emancipation*.”

So deeply at this time, which was about ten years ago, was his mind interested in the whole subject of slavery, that, to use his own words, “he read almost every work he could lay his hands on; talked much of it in public and in private. In the month of May, 1834, he became so fully convinced of the *right* of his slaves to their freedom, and of his *duty* as a Christian to give it them, that he prepared, say on the first day of June, a deed of emancipation for the six that he brought with him from Alabama, and had it duly entered on record in the office of the County Court of the county in which he lived. They all remained with him, receiving such wages—with the exception of a little girl—as were customary in the country.” For this “deed of emancipation,” beautifully evincing his deep sincerity and thorough honesty, Mr. Birney was far enough from claiming applause. It was in his view a simple act of justice.

Just here, a few words from a paper of Mr. Birney already referred to, will be read with profit and delight. “There would be no danger of personal violence to the master from emancipation, brought about by Christian benevolence. Such an apprehension is the refuge of conscious guilt. Emancipation, brought about on the principle above mentioned, I hesitate not to say, would, in most instances,

where the superior intelligence of the master was acknowledged, produce on the part of the beneficiaries, the most entire and cordial reliance on his counsel and friendship. *I do not believe that I have any warmer friends than my manumitted slaves—none, I am sure, if sacrifices were called for, who would not freely make them, to promote my happiness.*

“The injustice which the *slave* feels as done him in taking the avails of his labor, leads him to take clandestinely what he persuades himself he is entitled to. He has comparatively no character to lose, no ultimate object for the attainment of which the building up of a good character would contribute. As a freeman, *character* would be essential—his earnings would be his—his wife, his children would be his; the apprehension of forcible separation would depart, and he would have every motive that ordinarily influences men to build up a good name for worth and honesty. The depredations on the master’s property by *slaves*, I should suppose, are tenfold what they would be by the same slaves made freemen.

“The slaves, if emancipated on any terms, would be able to provide for themselves and their families. If they should be *kindly* treated by their former masters, and Christian benevolence should make the same efforts for their improvement, that are made in many places for the improvement of the distant heathen—they would not only provide for themselves, but with such opportunities become good citizens. I have made frequent inquiry as to the number of paupers among the colored people of Kentucky, amounting to nearly five thousand—I have, as yet, heard of but one. I think it is a rare thing, so far as I have had opportunity of observing, in slave States, to see free colored persons arraigned in courts, to answer to criminal accusations. *My own manumitted slaves, at the end of the first year of their employment on wages, will have used but half the amount they are to receive. They have not fallen into disorderly or vagrant habits; but have manifested—at least the younger ones—an increased desire for knowledge, and for attendance on the Sabbath-schools, and the common ministrations of the sanctuary.* To delay emancipation, in order to attain the greatest good it is believed will result from it, is, in my judgment, but to accumulate the difficulties now in the way, and to delay to a remoter period its full consummation.

“*Having emancipated my slaves from a full conviction that the bondage in which I was holding them was SINFUL, I conceive I have no greater right to ask for COMPENSATION from*



*any quarter, than I would have in any other case, where a similar conviction would lead me to return to my neighbor any property to which he had an unquestionable right, and which I by superior power had withheld from him. The claim of 'compensation,' it seems to me, can be fairly sustained, only on the ground that slaveholding is not sinful. Would not the Ephesian converts, who at once abandoned their 'curious arts,' and burned the 'books' which contained instructions in them, have been as equitably entitled to compensation as the slaveholder, who abandons a *property* equally condemned by God's law, and commits to the flames the charter by which he has hitherto supported his groundless claims?"*

Mr. Birney had now reached ground where he could stand erect, and speak with a man's voice. He could not be inactive. The doctrine of Immediate Emancipation, cordially embraced, and decisively acted on, had shed light and peace and joy through his spirit. Its influence upon him and upon his slaves was equally renovating and refreshing. Both them and him it raised to the dignity and power of genuine manhood. And the benefits he had thus received he would freely impart—impart to all within the sphere of his influence. His exertions were vigorous and untiring to convince his fellow citizens, on the right hand and on the left, of the sin of slaveholding—to persuade them to unite with him in subserving the cause of Holy Freedom. He went from place to place—he visited family after family, to collect fit materials for an anti-slavery society. A few listened to his voice. A Buchanan and a Munsell bravely came to his assistance; and claimed a share in the privileges he enjoyed, and the sufferings he endured. At length, a small anti-slavery society was organized.

To bring the Press, moreover, into the service of enslaved Humanity, Mr. Birney exerted himself promptly and resolutely. He made arrangements for publishing the *Philanthropist* in Kentucky. About this time, the affair at Vicksburg occurred, with its wide-spread alarm and horrible atrocities. The fear of a servile insurrection agitated the community where Mr. Birney resided. The slaveholders there were intent on preventing the publication of the *Philanthropist*. They employed persuasion—they "breathed out threatenings." But Mr. Birney was not to be deterred by the one, or dissuaded by the other. The rights to which he was entitled, he calmly assented. For the discharge of the duties to which he was Heaven-summoned, he cheerfully and resolutely girded up his loins. His kindred and friends

marked with deep apprehension the perils which were thickening around. With "many entreaties they besought him" to abandon the position he had undertaken to maintain. But "deadly imminent breach" though it was, he could not retire. Nor did he relinquish the design, till he found that his printer could not be persuaded to fulfill his engagements. And he could not, in the circumstances he was placed in, persuade another to come to his assistance. And as he was resolved on publishing the *Philanthropist*, he must, of course, as he did, leave Kentucky. So far as the welfare of the slave was concerned, it made indeed no great difference on which side of the Ohio river the press went into operation.

Just at this point, a strong light is shed upon the Man and his position, by the following statements, taken from a paper which we can not help ascribing to the powerful, polished and faithful pen of Prof. Wright. "In the prospectus he said: 'Those who have investigated it (slavery) with one consent declare, if something effectual be not done without any delay, it will become in a short time unmanageable, and in the end *overwhelming*. In our condition, to do nothing would show an unpardonable lack of manhood. Something effectual ought to be—for as yet it *can* be done. With the *sin* of slavery, its evils may be terminated; our land may be blessed of God; raised up; cleansed from defilement, and, without a single remaining blood-spot, stand clothed in the majesty of her free principles, the rebuke of tyrants, the refuge of the oppressed.'

"The paper was to maintain the duty of immediate emancipation, among other reasons, 'Because it (slavery) is the mighty barrier—resisting the progress of pure religion in the slaveholding States:

"'Because *Slavery*, the institution of man, is opposed to *Liberty*, the institution of *God*. In a contest with the Almighty, we must be overthrown. 'Who hath hardened himself against Him, and hath prospered?'

"On the 12th of July, thirty-three of the citizens of Danville addressed a letter to Mr. Birney, remonstrating against the proposed establishment of the paper. They said:

"'We address you now in the calmness and candor that should characterize law-abiding men, as willing to avoid violence as they are determined to meet extremity, and advise you of the peril that must, and inevitably will attend the execution of your purpose. .... We propose to you to postpone the setting up of your press, and the publication of your paper, until application can be had to the Legisla-

ture, who will by a positive law set rules for your observance, or by a refusal to act, admonish us of our duty. We admonish you, sir, as citizens of the same neighborhood, as members of the same society in which you live and move, and for whose harmony and quiet we feel the most sincere solicitude—to beware how you make an experiment here, which no *American slaveholding community* has found itself able to bear.’

“Mr. Birney returned a reply, refusing, in respectful, yet dignified and decided terms, to comply with their request. He suggested that it would have been far more becoming, and more like the spirit of ‘law-abiding men,’ had they ‘*abstained entirely*’ from the threat that a resort might be had to violence, to prevent the exercise of one of the most precious rights of an American—a right which however it might be violated in the destruction of his property, or cloven down in the abuse of his person, can never for a moment be surrendered.’ He, therefore, after giving his reasons, concluded, ‘However desirous I may be of obliging you, as citizens and neighbors, I can not accede to your proposition.’

Before leaving Kentucky, however, Mr. Birney prepared, in a “Letter to Ministers and Elders,” a compact, strong and beautiful argument “on the sin of holding slaves, and the duty of immediate emancipation.” From this, extracts will now be given.

The following is the plan of Mr. Birney’s argument, with the particulars under the first division: “I mean rather to present: 1. Some of the most prominent characteristics of slavery. 2. Some of the excuses of our church for not purifying herself from this sin, with answers to them; and 3. The consequences to the church and the State at large, if she should at once enter upon her duty. The characteristics to which I now ask your attention, are—

“1. It originated, has always been, and is at this day, maintained by a violence that is utterly at variance with the mild spirit of the Gospel.

“2. It wrests from one set of men, without crime on their part, the fruits of their bodily toils, for the support and ease of another.

“3. Its effects upon its subjects are to stupify and benumb the mind, to violate the conscience, to multiply the sins of the grossest character, to exclude the knowledge of God and Christ, as well as of the necessity of any preparation for the world to come, and, of course, to prepare them for hell.

“4. Its effects upon those who maintain it, and in some

measure upon those who witness and consent to it, are indolence, diabolical passions, deadness to the claims of justice and the calls of mercy, a worldly spirit, and contempt for a large portion of our fellow creatures : therefore, as far as their qualifications for an eternal state are modified by slavery, it rather prepares them for the sentence of the damned than for the invitation of the blessed.

“ That the above are some, but by no means all of the characteristics of slavery, no one, with our opportunities of witnessing the thing itself, will deny. Now, does it not seem passing strange, that a ‘ monster of such hideous mien,’ should have been received within the very midst of the church of God—that it should find in its bosom its surest and softest resting-place—that it should be fondled, sleeked and cherished there ? and that if any one attempt to tear him from his lodgment, with one consent all cry out, ‘ Let him alone ! let him alone ! we have become so accustomed to his presence, that much of his deformity has been taken away, and we can not do without him ; we are preparing him for his discharge, which, as he is slow to learn, he will probably be ready for, in some hundred or two years ; *then* he can be dismissed without injury to any one concerned ; but don’t disturb him *now* ; he is very quiet, all things are going on well. Make what preparation you please for his *future* dismissal ; but by no means touch him at *this time*. The church ! the *church* ! you’ll endanger the church, and make it more unpopular than it now is. I charge you, wait for a ‘ more convenient season.’ God is opening the way for his discharge in his own good time. If you attempt it *now*, you will not only utterly fail, because all the *church* will be against you ; and besides, they will call you, and join with those who are without in calling you, a madman and a fanatic—and your influence will be destroyed.’ This is no caricature ; it is solemn, serious truth ; should it be denied, there are ‘ clouds of witnesses’ to prove it. But to return.”

Under the second division, how impressive and refreshing is the following answer to the allegation that “ Paul and Peter establish, or recognize as established, the relation of master and servant, (slave,) when they give admonition to both as to their reciprocal behavior. It is very certain that this would not have been done, they being holy and inspired men, if the relation itself was sinful ; or if there was any thing in the subjection of one human being to the will and caprice of another, that was forbidden by God’s law. Now



if the word '*servant*' be used by Peter and Paul to mean '*slaves*' exclusively—a meaning I admit only that the excuse may have all the force it can claim—their exhortation to persons in this condition amounts to no more than what had been impressed before upon all who were, or might become, the victims of injustice or oppression, *to bear it patiently*. It was given with the same object, and in the same spirit; as the command of the Savior himself, that the persecuted should *pray for their persecutors*. Had it been a common evil during the ministry of Paul and Peter to which Christians were exposed, to be cast into prison by the lawless power of individual persecutors, would the exhortations of these apostles to them to bear their sufferings with resignation and meekness, establish or recognize as established the relation of persecutor and persecuted? or authorize Christians to exercise grievous oppressions upon one another, or upon such of the heathen as they might be able to circumvent and bring into their power? Or when Paul, through Titus, admonishes his brethren to be '*subject to principalities and powers, and to obey magistrates,*' does he in the slightest manner sanction the imperial atrocities of a Nero, a Domitian, or any of their legitimate successors until now? I know you will say he does not; and that he would have condemned in the conduct of those tyrants towards their obscurest subjects whatever was inconsistent with the great and universally binding law, '*Thou shalt do unto others as ye would that they should do unto you.*' If then Nero, for example, had submitted to the Gospel that Paul proclaimed in his capital, and become an obedient disciple of the apostles—although he might have retained the *power and authority* of an emperor; yet his oppressions, his cruelties, would have ceased, the very temper that prompted them would have been suppressed, his power would have been put forth for good, not for evil, and he would have been seen a prince dispensing justice in mercy, and finding his own happiness in that which he daily scattered over a grateful people. Would he under Paul's discipline have seized upon the poor, the weak, the defenceless of his empire, that he might exact from them toil unrequited during their whole lives, and consign them, and their innocent children after them, to social and civil degradation in the midst of happy millions—to personal bondage—to mental darkness—to the power of vice and the dominion of sin—to hopelessness in this world—to shame and everlasting contempt in that which is to come? Or had the converting grace of God found

him acting the bloody and relentless tyrant, and thus fulfilling his relation to the oppressed, would he, Paul being his teacher, have continued it during his life? And not content with this, would he—calling upon Paul to indite his last will and testament—have perpetuated by legacy to his issue this continually growing mass of blood and groans—of misery and tears? But let us come down from the tyrant over millions to his miniature—brandishing the sceptre of his authority over some half dozen of his fellow creatures, and see how the matter stands. You insist that Paul recognized—that is acknowledged to be right—the relation of master and servant among his cotemporaries; of course, that it could not have been wrong *then*, when tested by the great principles of man's duty to his fellow man, preached by him in his own time, and which we consider as preached to all persons *since*. The inference you would deduce from these premises—one which is unavoidable—is, that as these principles can never change, as they were intended for the direction of men in all time, (to say nothing of eternity,) this relation, *then* right, must be so *now*: This I believe is a fair statement of the position assumed, on this passage, by the scriptural advocate for continued slavery. Admitting all the premises to be true, the conclusion to which you have come, would be altogether undeniable; and we would be authorized now to inflict on our fellow men, white or black, who might be reduced into our power, all the enormities of Roman or Grecian slavery.

“But there is an essential part of your premises—the approbation of Paul of the injustice and cruelty of the master; covered up under the very comprehensive word *relation*, that I apprehend, is very far from being maintainable: For if it can be maintained, it must be by making him nullify all those principles of moral action which he had been unceasingly inculcating upon his fellow men, and of which he had been giving in his own conduct a bright example. For if this *relation*, [in which are to be included all the atrocious powers conferred by the Roman laws in the time of Paul; as well as the powers, not much less atrocious, exercised in some parts of our own country now,] be right; it follows consequentially, that to do any thing fairly necessary in the estimation of the superior in the relation, to maintain it, can not be wrong. Thus, among the Romans, masters could put their slaves to death at pleasure; and it was done with great cruelty and frequency; they kept their slaves chained to the door-posts as janitors, they branded them in the fore-

head, and, if the master was slain at his own house, and the murderer undiscovered, all his domestic slaves were liable to be put to death. Under this power, four hundred were put to death on a single occasion. Will you drive the apostle to a recognition of such horrible deeds? To an acknowledgment that they were right? That there was in them no violation of the great law of love? No: you reply; this is too horrible. I rejoin and say, that you can not then, on your own principle, charge him with the recognition of any violation, how small soever it may seem, of this law. For the same purpose, (the maintenance of the relation,) it may be thought necessary by masters among us, to keep back the hire of the laborers who reap down their fields, (this is injustice)—that if a slave, in obedience to the very constitution of man's nature, when self-interest, the mainspring of action, is taken from him, become indolent,—if he be reluctant to spend gratuitously for another that property which the great Author of his being has given him in his own physical powers, in his own bones and muscles and sinews—he may be beaten and scourged to any extent, however cruel, till this indolence, this reluctance to an unrequited transfer of his labor to another, this natural tendency to self-indulgence, be overcome. (This is oppression.) To the same end it may be necessary, in the opinion of the master, in order to derive that profit from the *relation* which only makes it worthy to be maintained, that marriages among his slaves be discouraged, and a gross state of concubinage permitted; that the wife be torn at midnight from the man of her love, and her screaming children wrung from her frantic grasp; that the husband find his manly arms, intended for the protection of his helpless offspring, bound in the weighty and sure fetters of the southern slaver; and the last, the sole atom of earthly happiness they were all enjoying, cast upon the winds. This is cruelty unmixed—and to justify it, you bring the noble-minded apostle who suffered persecutions without number, distress and death, that he might bring men to love one another!!!

“Further: It might be that the whole life of a master would be passed in the perpetration of injustice, the exercise of cruelty and oppression; that a relation might be perpetuated whose substance is the aliment of the most overbearing despotism on the one part, and the vilest abjectness on the other. If the sins that may be said to be inherent in slavery—if injustice, cruelty and oppression were habitually committed against persons *not in the rela-*



tion, and unrepented of, the perpetrator, by the judgment of all men, would be damned for ever—if they were committed against our *white* ‘neighbors,’ a furnace as hot as Nebuchadnezzar’s would be too cool for them. Yet, notwithstanding his character may, by the indulgence of the worst passions against his slaves, have become as mean, as vicious, as degraded, and as unfit for the society of the just made perfect, as if he had indulged them against free persons, and his equals in society; because, forsooth, his slaves are in the *relation*, there seems to be no harm done, and at his death he is taken up to heaven, where all this treatment of his slaves, they being in the *relation*, goes for nothing. Thus it would appear that Paul and Peter, after exhorting men to do all—even to their eating and drinking—for the glory of God—to be holy in all manner of conversation, are found supporting a *relation* whose sole object is, on the one side temporary convenience, at the expense of personal degradation on the other, and the moral pollution of both—whose universal tendencies upon the parties concerned, and upon society at large, have been mischievous, polluting and unholy. To these apostles I do not think can fairly be attributed such miserable logic to support such miserable morals.

“For further illustration: suppose that during the ministry of Paul, a Christian slave at Colosse, thinking himself treated in an unchristian manner by his Christian master, had brought his case before the church whilst Paul was on a visit to that city. He would alledge against his master, that instead of giving him, as Paul had directed, what was just and equal for his services, he gave him nothing but his food and clothing, and these in many instances adjusted to his wants with the most scrupulous nicety: that his ‘threatenings’ were many, and his scourgings not a few. The master may be supposed to have admitted all the facts of the case, and to have justified himself in such words as these: ‘As to the command to give my slave what is just and equal, I have never interpreted it to mean what the standard of justice among equals would require; but rather that I should give him just what suited my convenience; and as to giving him what is equal, or, as he understands it, a fair equivalent for his services, it never once entered my head—for I might as well have no slave at all as to do this; indeed he would, if this be the meaning of it, soon be as free as I am. And as to the threatenings and scourgings that I have bestowed upon him, his own insolent claims, now reiterated—have justly provoked them: they are absolutely necessary to keep him



humble and obedient, make him know his place, and to perpetuate the relation which you yourself have recognized, and know, ought by all means to be maintained.' What now do you think Paul would have done, after hearing such a harangue as this? Would he have sent for the *Phrygian slave code*, have collated the laws, and heard testimony as to all the recognized and approved customs of oppression? Or would he have taken up the word of God, the perfect law of liberty, and quoted to him, '*in all things whatsoever ye would that men should do unto you, do ye even so unto them?*' Brethren, if such a case were brought before you, how would you decide?—By the laws and customs of slavery, as they exist in Kentucky, or by the *book of God*? If by the latter, what becomes of slavery? It is shivered to atoms."

In dwelling on the natural consequences of immediate emancipation, Mr. Birney uttered words, to which one delights to listen. Take the following as a specimen. "But if we set our slaves free among us, they will turn round and cut our throats. This would be bad enough truly. But do you entertain any serious apprehension of such a result? For if you do, I shall be compelled to attribute it either to conscious guilt for bad treatment of your slaves, or to a total want of manhood. We have succeeded thus far in keeping in subjection this people, whilst committing against them the greatest trespass that man can commit against his fellow, whilst withholding from them rights for which men in all ages have hazarded life, fortune and honor; and yet, when we restore those rights peaceably and kindly, it is most stoutly maintained that they to whom they are restored will turn and rend us. This is surely unsound philosophy—altogether at variance with the laws of mind, as well as with historical facts. For I am very sure that those who insist upon the objection may safely be challenged to produce a single well-authenticated instance to show, that dangerous or even inconvenient consequences have followed the sudden emancipation of large bodies of slaves. Now I am by no means so sanguine as to indulge the belief that in emancipation will be found a *panacea* for all the ills that flesh is heir to; but that they will ultimately be immeasurably diminished by it, I can not for one moment doubt. And I wish it always borne in mind, whilst we are discussing that part of the subject which relates to the expediency of emancipation, that it is not the introduction of a new and untried evil, where none of kindred character existed *previously*; but that it is the substitution of an evil, in the opinion of its

advocates, light and transient when compared with the evil of slavery, whose ultimate tendency, in the judgment of all considerate men, who have weighed it, is to crush us.

“Now to every one of you who is a slaveholder, and in whose mind exists an apprehension of the danger predicted in the objection, I am bold to offer some means of defense from all harm. Say, you have become convinced that slavery, as it exists among us, is a *sin* before God; that you have repented of your own guilt in this matter, and are now anxious to show fruits that consist with repentance; you summon before you your servants—the fathers and mothers, and such others of them as may be old enough to understand an explanation of the principles on which you are about to act: you say to them, you have become convinced that the bonds in which you have held them are inconsistent with the law of love to our neighbor, enjoined by God upon every man, and that moved by the sacred authority of the religion you profess, you have determined to continue the sin no longer. With this you read and then deliver to them, accurately authenticated deeds of manumission for themselves and their children. You further say to them, ‘As I have already given to you the most convincing proof I can furnish of my friendship, it is not my intention to push you out of my doors, desiring never to see you again—exposed to the impositions of a world with whose business you are in a great measure unacquainted, or to the prejudices and scorn of such as cherish for you no kind sympathy; no, if you choose to remain in my employment, I will pay you what is just and equal, a fair equivalent for your services. I will continue to feel for you the love, and extend to you the conduct of a Christian; I will assist you in providing the means of educating your children for usefulness in life, and should you so choose, in binding them out to profitable trades and employments; and I will be your sure and steadfast friend, and your protector so long as your conduct shall not render it improper for me to be so.’ I ask you, now, if after doing this, and kneeling down with them at the footstool of God’s throne to thank him for the Christian courage he has bestowed upon you, and to implore his blessing upon the down trodden and the poor, in their new estate, you would fear the flames of the incendiary, or the knife of the assassin? Hateful as is to many the very name of abolition, here it is in its essence—and its safety is sure, because it is the offspring and the exhibition of benevolence.

“Well, after all this you say, ‘What can we do?’ I

answer, you can rise up to-morrow and liberate all you hold in bondage. ‘But,’ you reply, ‘what effect would this have upon the great body of slaveholders in the State?’ I will undertake to affirm, that by such a course, small as is your number, you have crucified the giant sin of our land; his dying struggles may be fierce and long protracted, but his dissolution will be certain, because the death-blow will have been given. The ministers and rulers of any of the larger denominations of Christians have it in their power to-morrow to give the fatal wound to slavery in Kentucky—and if in Kentucky, throughout the slaveholding region of the Union for how would the congregations over whom God has placed them, and upon whom they would then be authorized to press this subject with all its overpowering weight, upon sound consciences and Christian hearts, stand in the blaze of such virtuous action, and not be consumed or won by it? If it were to prevail among Presbyterians alone, how long could the other denominations hold their fellow men in bondage? Not twelve months, as I honestly believe. If then you will come up to the next Synod, after having ‘loosed the bands of wickedness, undone the heavy burdens, let the oppressed go free, and broken every yoke,’ so far as you are concerned, you have the promise of the Lord that ‘your light shall break forth as the morning, and your health spring forth speedily; that your righteousness shall go before you, and the glory of the Lord be your rereward.’ You may, it is true, be called madmen; but Paul was so called before you. You may be called fanatics, fools and knaves; but Sharpe, Clarkson and Wilberforce were so baptized by the enemies of humanity; you may at first obtain but little honor from men; but you will win an eternal weight of glory from God. That you may be influenced by Him so to act, is the earnest desire of your friend and brother.”

About this time, the spirit and movements of Mr. Birney, as the friend of Freedom, began to attract the attention and rouse the animosity of his old neighbors and acquaintance in Alabama. They held a public meeting, described as “large and respectable,” in which, as a basis for a number of foolish and wicked resolutions, they adopted a preamble drenched in falsehood and absurdity. They affect to look with a kind of horror upon those who “live upon the labor of others,” as if this were not a prominent feature of their own character! With unblushing effrontery, such as only the adroit villain could exhibit, they associate the name of Mr. Birney and his coadjutors with those of certain black-



legs and gamblers, whom they proposed to visit with terrible inflictions. "The *sole* and *AVOWED* object of Mr. Birney and his friends, they declare, is to sow the seed of discord, rapine and murder among the slaves of the South." These fervent and determined patriots, therefore, appoint a vigilance committee, to inflict blows and death upon the objects of their vengeance, whenever they may lay their lawless hands upon them. Of this committee, more than one-third were described as professed Christians, belonging to three of the leading denominations in our country, one of whom was a Baptist minister. It is very difficult in the way of riot to do mischief with a desperate hand, and on a large scale, especially in opposing the cause of Freedom, without the countenance and assistance of some baptized mountebank, of some heartless religionists. And such can easily be found almost any where in our country, where a Christianity prevails, which can apologize for slavery.

The assault thus made on him, Mr. Birney repelled with manly indignation and conscious power, which it does one good to peruse. There he stands, calm, erect, self-possessed. Hear him. "*Gentlemen*,—A number of the Alabama Watchman, containing the foregoing account of the proceedings of a 'public meeting,' lately held at Athens, has reached me, enveloped as newspapers usually are, when sent by mail. An *extra* of that journal, containing a duplicate account of the same proceedings, carefully enclosed in a blank wrapper, sealed, and charged with a double rate of postage, (unpaid,) has also been sent to me and received. All this care, to convey speedy and authentic information of the notice you have been pleased to take of one who had little reason to expect such conspicuity as you have given him, it is to be presumed, has been exercised by your agency and direction. In this reply, which, after no hurried reflection, I have thought proper to make to your proceedings, I shall take but little time in noticing what was done that is strictly personal to myself. I will stop only long enough to remind you—especially that portion of you who profess to be followers of Christ—of the *unjust* impression you have attempted to make on those to whom I am a stranger, by associating me, in your proceedings, with '*gamblers, black-legs, and suspicious persons.*' It is well known to you all, that with laborious diligence I prosecuted in your county, and with no mean success, a profession, arduous in its duties, and, to a conscientious mind, beset with difficulties and temptations. To the generousness of my practice, the *bar*



will testify, and, with *parties* and *witnesses*, bear record of my exemption from the petty tricks and advantages which bring the profession into disrepute. Knowing me, by an acquaintance of many years, as you did—in my profession—as a member of the church—as a citizen—you have tried to produce an impression that you *knew* to be unjust and injurious. As Christians and as gentlemen—now that you have had time for reflection—you should be sorry for it, and ashamed of it.”

Again, “Nor, do I believe, hateful as is the very name of abolitionists to slaveholders, that you would refuse to mingle your sympathies with theirs, for the oppressed of other lands. In all our South, the tyrant Nicholas had not a friend, while he was drenching his hands in the blood of his Polish subjects, goaded by oppression to revolt. No : the faintest ray of hope for their success in vindicating their liberty, warmed your every heart ; the clang of the Polish falchion on the invader’s casque, made music delightful to your ears ; whilst for every blade that was raised by an arm that struck for liberty, your silent orisons went up, that it might descend with resistless energy upon the strongest of the oppressor’s bands. Your prayers ascended not for the staying of the pestilence, that was sweeping off the thousands of the foe—and when, at last, after the struggle of despair, the sun of Poland’s hope went down in tears of blood, it was followed by your tears of sorrow—whilst in mournful sympathy with the poet, you exclaimed—

‘ Hope for a season bids the world farewell,  
And Freedom shrieked when Shrejeuski fell.’

“ But stay—not so fast : Is it not ‘*fanatical*,’ thus to suffer the honest feelings of your nature to go out for the oppressed—and is it not ‘*incendiary*’ for you here, to reprobate the cruelty of the tyrant, or to commiserate the afflictions of such contemptible ‘disturbers of the peace ?’ There are two sides to every question. You have not yet heard the high-souled and chivalrous Emperor’s account of this matter. You have not heard from his own lips of the great ‘*delicacy of the subject*’—nor have you properly appreciated his ‘*peculiar circumstances*.’ To your furious zeal we may suppose him to reply, ‘ You have forgotten altogether, that however wrong might have been the dismemberment of Poland, and the *first* reduction of its inhabitants to political servitude, that, *now*, they had become accustomed to it—that they were

exceedingly degraded\*—totally unqualified for liberty, many of them being Jews, who will neither amalgamate with Christians, nor Christians with them—that, therefore, they never can be free in their native land—the only way to elevate them to a proper sense and enjoyment of freedom, being either to transport them to the hospitable and healthy shores of Palestine, (which is impossible,) or for me to retain the power I now possess over them; using it of course with a merciful discretion, as I have always done, and solely for their good; making them, as it were, candidates for freedom, till, some how or other, in the lapse of time, they may be inducted into its full fruition.’ May it not be, too, you have overlooked that most manly and satisfactory of excuses for inveterate habits of oppression—that they were introduced by his very worthy autocratical ancestors, who, themselves being oppressors, had transmitted the fashion to their descendants, and now, without any agency of his, he had it ‘*entailed*’ on him. Beside, may he not well have urged, that his power would be curtailed, his wealth diminished, and his princely ease broken in upon, by removing the weight of his oppression? And still more fiercely, that the oppressed were his ‘*property*’—that it was his own concern—that no other people knew any thing about it, or had any interest in it—and that, if any canting sympathy for his subjects (contented and happy he knew they were, if meddlers would let them alone) should be felt and expressed any where; or, if a misguided philanthropy should attempt to convince him, that in the stores of heaven there is laid up wrath for the oppressor—or that it is better, safer, happier, to be served by willing subjects than reluctant slaves; or if his neighbors should permit any discussion of the wrongs of tyrants and the rights of men, he should regard it as a hostile interference with his own peculiar despotical interests, calling, at least, for a withdrawal of his friendship, if not for open war upon the guilty. Now, in what light would you look upon such pleas as these? Not, I am sure, as the candid reasons of an intelligent and honest mind, desiring to show mercy and do justice—but, rather, as the guilty subterfuges of a base, and selfish, and cowardly despot, who has the meanness to back with threats, his feigned excuses for practising an iniquity, he has not the magnanimity to forsake.

“Thus far, you and the abolitionist ‘walk together,’ in admiring the beauty and comeliness of liberty. But at this

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\* ‘The peasantry are in a wretched condition, dirty, improvident, indolent, addicted to intoxication, and, of course, poor.’

point you separate. He *loves* her as a substantial good for himself, his neighbor, his country, the world: you admire her as good in the 'abstract'—or, as having her habitation *at a distance*—in Ireland—in Poland—or in Greece. But let her blazing beacon begin to sweep over the Atlantic and approach our shores, and its warmth begin to be felt near your cotton-bales, your rice-tierces, and your sugar-hogs-heads—let but

England's flag,—  
Proclaim that all around is free,  
From 'farthest Ind' to each blue crag,  
That beetles o'er the western sea;—

and, oh, how fanatical! how visionary! how suicidal to her own interests, how destructive to those of the oppressed! and how injurious to her neighbors!

"Now, what a shame is this! Lovers of freedom, are ye?—and well content that her fires should blaze, and warm and purify *abroad*—whilst at home, they must be extinguished, and your own house left desolate and dark! Lovers of liberty, are ye?—and yet, whilst the abolitionist is striving to uprear her fallen standard in our country, that all the world may see its broad folds, waving in the purest air of heaven, representing in letters of sunlight, that *ALL MEN are entitled to LIBERTY*—with myrmidon bands you rush to seize, that you may consume it in the furnace of a sugar-house, or bury it forever in the marshes of a rice-field.

"The importance of the object is by no means diminished, when it is seen how rapidly slavery is insinuating itself into the very religion of the American church. Time was—and it ended but a little while ago—when slavery was deplored in the south, not only as an *evil* of large dimensions, but as a transgression of the great law of love; which, whilst it could not be justified, yet some palliation was found for it, in the peculiar circumstances of that portion of the country—and a hope often expressed, that, in some way or other, it might terminate. No section of the church was then found so besotted as to become its advocate and supporter on *principle*, and boldly take God's book of love as their warrant for holding their brethren in a bondage, unequalled for its enormities even among Mahomedans or Pagans of modern times; nor so reckless of all decent regard to their character, as to challenge the praise of men for the meliorated condition of the enslaved here, as to morals and physical comforts, above what it would have been had they remained

in Africa; or to set off against their iniquity the few instances of conversion to Christ, by which God, in the greatness of his mercy, had chosen to exalt his name, and make it glorious, among the down trodden and perishing of a Christian land. Yet, all this has been done—not by a few ignorant and iron-hearted slave-driving professors of religion, but by the accredited organs of different churches in the South, claiming high stations on the scale of general intelligence, biblical knowledge and spiritual purity.”

What a terrible rebuke is implied in this pointed demand: “What has slavery, acting through the South, done for the freedom of speech and of the press, those great conservatives of our government? I will tell you: She has used the refinements of metaphysics and the delusions of sophistry to explain away the obvious meaning of constitutional provisions enacted for their preservation; she has claimed for herself the peculiar favoritism of the Constitution of the United States; she has reared herself aloft on a bloody throne, demanding, with lash in hand, of States sovereign as herself, that all their rights should bow in submission to her and ‘do her reverence;’ that her dignity must be regarded as a thing too holy to be handled; and that these common rights of the people be restrained lest her sacred mysteries be profaned by men of ‘unclean lips;’ and the secret things of her *penetralia* be exposed by freemen to the rude gaze of a vulgar world.

“What has it done for the security of the citizens under the Constitution and laws of the land? You shall hear: She has *mocked* at Constitutions and laws; she has raised up tribunals unknown and opposed to them both; she has instituted inquisitions and invested them with power to execute punishments, not only of disgrace, but even unto death; she has set aside the trial by jury, and freemen of our country have been apprehended on suspicion, and without any charge of crime known to the laws, they have been shamefully treated; they have been ignominiously scourged, as slaves are scourged; and they have been executed on the boughs of your trees, whilst the once sacred appeal, ‘*I am an American citizen,*’ has been drowned by the deafening shouts of a law-contemning rabble.”

The charge of hurling denunciations against the slaveholders, so often urged against the abolitionists, is thus happily disposed of: “But again: the abolitionists call hard names that can not be borne. Now, it is very true, and we all are witnesses how difficult it is to bear their application



to ourselves. Yet they ought not to throw off its centre any well-regulated mind. If charged falsely, we should most generally disregard it, and *live down* the falsehood. If truly, we should be admonished (*fas est ab hoste doceri*) to reform that part of our life which has brought the bad name upon us. Sure it is, if the balance be struck between abolitionists and their opposers, the latter will be found to have overpaid them, in an amount so great, and in a coin so pure, and so thoroughly unadulterated with the alloy of moderation, or respect, or restraint, that its repayment must be utterly and forever despaired of. However, to a brief answer to the objection.

“There were, doubtless, in the days of Paul, a class of men well described as ‘men-stealers.’ The Mediterranean, and the smaller seas connected with it, were greatly infested by *pirates*, an important branch of whose business was *man-stealing*. Whenever they were able to overpower a village or settlement, and near the coast, they seized on the inhabitants, reduced them to bonds, and sold them in other lands for slaves. So formidable had they become in the time of Pompey the great, that his eulogist, Cicero, in one of his most labored and eloquent orations, makes it ground of high praise, in recounting Pompey’s merits as a commander, that he had conducted to a fortunate conclusion the *piratical war*. It may have been to such piratical man-stealers that the apostle especially referred. It is true, he does not mention as a class, distinct from the actual kidnappers, those who became the purchasers, and the holders, and users, through life, of their fellow men thus reduced to bondage. We are left to conjecture as to the probability that his bold and honest mind did not discern any real difference, and that he had not penetrated to the prevailing distinction of our more enlightened age, which makes such wide discrimination between the guilt of the original captors and that of the very unfortunate gentlemen on whom the ‘*ENTAIL*’ has fallen. He may have thought as you would, in a case where one of your half-fed negroes breaks into your meat-house at midnight, and after satisfying his present hunger, sells the surplus spoil to an unworthy white neighbor—the *latter knowing that the meat was stolen*. Here, you hesitate not to stigmatize the purchaser, by the same name you would use in describing the actual rogue, and to assign to him, as worthy of it, disgrace and punishment proportioned to the elevation of his intelligence above that of the slave. Yet, *he* was not the *thief*—he only took, retained, and used—and this, in all prob-

ability, too, after having paid for it—property stolen from its rightful owner. But no one would be thought uncharitable under any code of ethics with which I am acquainted, who should, in speaking of the purchaser, as connected with this transaction, describe him as a *thief*, or his children as *thieves*, if they were to permit the stolen property to be ‘entailed’ on them, or to use it as their own with a full knowledge of the circumstances under which it was introduced into the family. And for this very simple reason—the moral turpitude contracted is as great in the one case as in the other; the *circumstances* of their offences differ, but the *subject-matter*, the *substance* of them is the same. However necessary it may be for the purposes of judicial investigation to make a distinction in describing the two offences—in *morals* there is none called for; they are both *thieves* of the same grade.

“Will you not find it difficult on applying the same moral code to the man-stealer and the man-buyer, to arrive at a different conclusion as to their comparative guilt? I will merely state the case, leaving you to make the application. A poor *sans culotte* heathen prince, on the coast of Africa—say for instance, ‘King Joe Harris,’ or ‘Long Peter,’ with some fifty or sixty followers in the same trim with their liege lords, as to their outward man, inflamed with rum, bedazzled by a few beads and trinkets; equipped with musket, powder and ball, pike and cutlass, purchased by the slaver at a neighboring colony, sets upon his unsuspecting neighbors in the dead of night—kills the old and the resisting; overpowers the weak, and delivers them in chains to their instigator; *he*, to the civilized, the educated, the enlightened American, who, within the sound of the bell that calls him to hear God’s messages of woe—if they were but preached—against the oppressor of his brother—buys, retains, and uses for his own advantage, well knowing the manner in which the spoil came into the slaver’s hands. Now, tell me, where, in morals, is the difference in amount of guilt? Does the *greater* lie on the untaught African, or on the refined American?—Shall the heathen be denounced as the man-stealer—the intermediate agents have heaped on him all the foul names that language can forge, whilst he who consummates the whole transaction, without whom the plunder of his fellow-man could not be continued a single year, is looked upon as entitled to our most delicate regards, our tenderest sympathies; in fine, as a very unfortunate, yet as a very interesting and Christian gentleman? Is this the judgment

according to God's standard? I speak as unto wise men—judge ye.”

On the reluctance of the South to discuss the subject of slavery, Mr. Birney suggests the following thoughts, well worthy of the attention of the thousands whom they so vitally concern: “A few words more, and I have done. The South say, they will have no argument on the subject of slavery. Why not? Does it not concern them? Do they not understand it? Have they nothing to lose by a wrong, and nothing to save by a right decision? Has a dogged sullenness beset them—and do they suppose that this will arrest the inquisition now making by the *people* of this nation into this abuse inveterated by two hundred years of disgraceful duration? Strange resolve! Strange expectation! Persisted in, nothing could furnish stronger evidence of that *dementation* in a community, which, it is said, is the forerunner of its destruction. Already is the subject of slavery infixed on the minds of the *American people*. *Hæret lethalis arundo*—you might as well command the lungs not to inhale the surrounding atmosphere for which nature made them, and by whose inspirations they perform their functions, as the public mind not to welcome a discussion, so well fitted to call forth its energies and engage its noblest powers. Neither Southern legislation, dictated by passion and written in blood—nor yet its most faithful execution—any more than the brickbats and bludgeons and city mobs of the North, can exclude it. A decision *will be made*—it is with you to make it one of tremendous calamity—to *yourselves*; or one which shall raise this whole nation from her dishonorable dust, and show her to the world clothed in the garments of love, and honor, and mercy, and truth. Come, then, and like men, gird yourselves for the contest, and let it be one of reason and of mind—not of passion and abuse. On you, especially, devolves the duty of aiding in the investigation. You have an inexhaustible store of facts—you profess, alone, to understand it, and make light of the pretensions of others. You can not escape the guilt of a refusal. I invite you, without cost, to the use of the *Philanthropist*. Through its columns your voice may be raised, and your arguments carried to the remotest corner of the land.”

After finding it impracticable to publish the *Philanthropist* in Kentucky, Mr. Birney went for that purpose to Cincinnati. He might well presume that in a free State, the voice of Freedom would be welcomed—would be responded to by a thousand faithful echoes. But how greatly was he not



mistaken! "Judge," he exclaims, "of our astonishment, when, on the occurrence of a very trivial circumstance, in which we had no agency, and almost before we had made an orderly adjustment of our domicile, we were waited on by an official gentleman, and assured that the issue in Cincinnati, of a paper favorable to emancipation, would produce an explosion of mobocratic elements, more violent and destructive than had been known before; so much so, that any attempt on the part of the city authority to suppress or restrain it, would be altogether useless and unavailing; for, that respectable and influential men, such as might be relied on to aid in arresting a riotous outbreak from any other cause, would in this case, encourage it by their silence and acquiescence, if respect for themselves should prevent them from actual coöperation with the mob." Without entire confidence in this assurance, he thought there might be something in it; and as a sacrifice to peace, he concluded to issue the *Philanthropist* for a time at New Richmond, some twenty miles from Cincinnati. He ought not, however, to have expected any benefit from such a movement. The spirit of slavery had pervaded the whole body politic and poisoned every drop of blood in its veins. It was everywhere easily aroused and full of rancor and malignity. The triple headed dog, that guards the gate of Hell, could not bark more furiously or bite more virulently. The sympathy, which binds a gang of dark and bloody conspirators together, has always united in a dreadful league the tools of tyranny. These in the game, in which they have staked their all, play into each other's hands, eagerly and desperately. In a struggle with creatures, who are so dead to all the claims of decency and manliness; who trample so ruthlessly upon the rights of others; who have "sold themselves to work iniquity," no compromise on the part of true men can be of the least avail. You must come down to their low level; and become as vicious and degraded and miserable as themselves, or they will continue to hate and persecute you. You must, therefore, give up the contest or beard the monster in his den. No man had a better right to live in Cincinnati than Mr. Birney, and *to live there as editor of the Philanthropist*. Of this, his adversaries were well aware. A hair of his head they knew they could not touch, without playing the tyrant. And this they had resolved to do, come what might; and Mr. Birney could not well hope long to escape the threatened onset by yielding to their violence so far as to issue the *Philanthropist* at New Richmond. So far



as the habit of basely bowing to Southern domination was concerned, Cincinnati was much like the rest of Ohio; and wherever it might ring its appalling tocsin, it might reckon on sympathy and aid in putting down the spirit of Freedom. No sooner had the Philanthropist made its appearance, than a Kentucky editor through his journal exclaimed: "We have no doubt that his office will be torn down, but we trust that Mr. B. will receive no personal harm. Notwithstanding his mad notions, we consider him an honest and benevolent man. He is resolute too." Ay, resolute, undoubtedly. And this noble trait of character a Kentuckian could hardly help respecting, however it might be regarded by the craven spirit of Ohio.

Presently a great meeting was drawn together in Cincinnati, to prevent the friends of Freedom from wielding either there or in the vicinity the energies of the press in its service. The editor of the Philanthropist must be taught to bow his neck to the yoke which the insolence of the South had fastened on his unresisting neighbors. But the following words of Mr. Birney, uttered at this time, show that he was not quite prepared to receive the lesson which they stood ready impudently to force upon him. "The continued indisposition of Mrs. B., and the management of the Philanthropist, keep me near home. But, sir, I have enough to do here. The war is raging—the pro-slavery spirit here feels as if it had been *struck*, and is girding itself for the strife. An anti-abolition meeting is to be held this evening, called by 'gentlemen of property and standing.' The hand of the South has almost benumbed the spirit of freedom here. . . . I can not print my paper *here*; I lectured here one evening, to a small audience, in a private manner, no notice having been given of it in the papers. This is the exciting cause of the meeting this evening. It was but yesterday that a wealthy slaveholder, of Kentucky, called to let me know that my press in *Ohio* would be destroyed by a band of *his* fellow-citizens, who had determined upon it; that almost the whole county would be summoned to the service, and that my life was in continual danger. A few days before, a citizen of Cincinnati, a high commissioned officer of the militia, called to inform me that I would be disgracefully punished and abused, and my property destroyed, if I persisted in my anti-slavery movements. . . . I pray you press on. It is not a time to be indolent. If we are, our children may wear the livery of the slave. If I fall in this cause, I trust it will bring hundreds to supply my place."

At the meeting just alluded to, the Mayor in the chair, Mr. Birney obtained liberty to defend himself against the attacks which were there made upon him. But before he had proceeded far, a tumult arose; and the voice of Wisdom was lost in the clamor of fools. Determined, like the devils of old, to be let alone, the meeting resolved to trample on the rights of every American citizen by suppressing the publication of any abolition paper in the city or neighborhood. The Philanthropist, however, continued from week to week to cheer the hearts of its readers, until after some three months it was removed to Cincinnati. Here it was published without interruption or embarrassment for about the same period.—In the mean time, Mr. Birney was more or less occupied with lectures on the all-engrossing subject, which he delivered in one place and another, as he had strength and opportunity. But every where he was resisted, often with frightful violence, by the “dark spirit of slavery.” The following paragraph illustrates the opposition he met with, and the spirit he cherished on such occasions. He had been lecturing at Columbus. “During the hour I spoke,” he said, “the mob, having crowded about the door, were engaged in discharging at me their lighted missiles. When I had finished, and was returning to my lodgings a mile distant, I was attended by them a greater part of the way, they breaking in on the stillness of the night with their fierce and demoniac shouts. But why, you may ask, do I dwell on such things, of late by no means of uncommon occurrence? I recall them, that our friends, the friends of Freedom to the slave, of freedom to the white man, of protecting law, of inalienable rights, of constitutional liberty, may be more and more animated to the conflict. Every day is disclosing to us more evidently the dangerous condition of our country; and how a God of justice is bringing on an impenitent nation retribution, in the loss of our own liberty, for having plundered and violated the liberty of others. Let us then still more industriously gird up ourselves to the work before us, of bringing our country to penitence, as the best, nay, the only means of saving her. We, who are now in the field may all perish. But what of this! Our faithfulness unto death, if we be called thus far to suffer, will animate others to fill our places, whilst we go home to reap our reward, and be forever with the Lord. We fight, not with the courage of despair, but with the calmness of certain victory—with the strength of those who feel that their power is from the A'mighty.”

After the *Philanthropist* had been published in Cincinnati about three months, and when the city was "filled with its usual summer influx of slaveholders," an onset was made upon the Press. In the first place, at midnight and stealthily, dark figures worked their way into the printing-office, and there committed various depredations. They evidently expected to intimidate. But the damages were at once repaired; and all went on as usual. The air was now filled with angry voices. More fearful things were threatened, unless the friends of Freedom would abandon their position, and submit to the authority of the minions of slavery. Mr. Birney was continually exposed to every kind of insult. He had occasion to stop for awhile at a public house. The boarders were at once assembled to devise ways and means to protect themselves from his presence! For this purpose, a little less than a score of them, other modes of redress having been tried in vain, actually abandoned the table! A hand-bill, moreover, "was posted about the city, offering a reward for the delivery of one James G. Birney, a fugitive from justice," to "Old Kentucky." About this time, Mr. Birney, for himself and his companions in the struggle for Freedom, published an address to their fellow-citizens, in which the following weighty words impress themselves deeply upon the reader: "A band of lawless men array themselves against the constitution, declaring that *their* will, and not that of the *people*, is paramount. What, fellow-citizens, ought we to do in such a case? Ought we to yield to fear? . . . . We have now, in some degree, from the force of circumstances, committed to our custody, the rights of every freeman in Ohio, of their offspring, of our own. Shall we, as cravens, voluntarily offer them up, sacrifices to the spirit of misrule and oppression, or as American citizens contend for them, till a force which we can not withstand shall wrest them from our hands? The latter part of the alternative we have embraced, with a full determination, by the help of God, to maintain unimpaired the freedom of speech and the liberty of the Press—THE PALLADIUM OF OUR RIGHTS."

During the "Reign of Terror" at Cincinnati, Mr. Birney had reason to expect that on a given night an attack would be made upon his house. His wife was thrown into great distress. After soothing her in the best way he could, he proceeded, like a man as he was, to put his castle into a state of defense. Arms were there, and heroes. But, probably aware of the danger to which any such attack would expose them, his adversaries forebore, and kept their distance.



Matters were fast coming to a crisis. To this result a thousand things contributed. The leading impulse, however, had its origin in the lust of lucre. No sacrifice was too costly for the altar of Mammon. The trade of Cincinnati—the prosperity of the city;—compared with these, what was Freedom—what was Humanity? In trampling on the most sacred rights to which Human Nature is entitled, such as were clothed with the gravest responsibilities were not ashamed to prostitute their powers and influence. The dignified judge, supported by the solemn priest, and surrounded by men of wealth and influence, not a few of whom were members of different churches;—these were the heart of a conspiracy, to which on every side the ill-bred, the profane, the profligate, the reckless attached themselves, to work the will of a knot of the most desperate tyrants that ever brandished a knife in the face of the republic. No expedient was left untried which might reduce the resolution of Mr. Birney and his co-adjutors. The Press was plied; large meetings were held; speeches were made; resolutions adopted; committees organized—every thing was put in motion to reduce or destroy the little band of philanthropists, who had pledged their all to the cause in which they were enlisted. At length the assault was made. The printing-office of the Philanthropist was broken open, the type was scattered in the streets, the presses torn down;—the office, in a word, was completely dismantled. The crowd then rushed to the houses, one after another, of well-known abolitionists, whose absence saved them from the hand of violence. But Mr. Birney was the special object of the Bedlam-vengeance which had now broken loose. Hands, as cowardly as cruel, were eager to seize upon him, and drag him away to the tribunal where Lynch Law, with its gallows-ropes and bowie-knives, clamors for the best blood in the veins of the republic. He was, however, as a gracious Providence would have it, at a considerable distance from the city, aiding the friends of Freedom in their philanthropic exertions. Before he returned, the wrath of the multitude had in some measure subsided. He at once prepared for the public a “Narrative of the Riotous Proceedings against the Liberty of the Press in Cincinnati.” This done, he was at his post again, assisting his fellow-laborers in making arrangements for re-issuing the Philanthropist. In less than two months, every thing was ready; and the voice of Mercy, through the Press, was heard again in behalf of the victims of oppression. At the



present time, Cincinnati gives the cause of Freedom not merely a weekly but a daily paper.

Those who were active in the riot at Cincinnati to crush the Freedom of the Press, doubtless professed to be "as much opposed to slavery as any body." They would by no means be regarded as in league with oppression. They were, on one occasion and another, loud and eager in praise of the largest liberty which the laws of the republic allow. And yet they rushed ferociously on James G. Birney, as if nothing but his blood could quench their thirst for vengeance. And why? What evil had he done? He had undertaken in the use of his vigorous and well-trained powers, and with singular wisdom and magnanimity, to do his part towards the deliverance of his country from an evil which, according to the admission of all, threatened its destruction. He was himself from the land of whips and fetters, had been himself a slaveholder, and was familiar with the chattel principle, in all its applications. Decisive proofs he had given of deep-toned sincerity, of a thorough acquaintance with the work to which he applied himself, and of a resolution which could not easily be shaken. He was, moreover, candid, courteous, affable: every way a *gentleman*. His rare fitness for the work evinced, that of all men he *ought* to attempt the deliverance of his country from the plague of slavery. The judges, and priests, and jurists, and editors, and merchants, and artisans, who employed the wild powers of riot to crush the Philanthropist, had manifestly sold themselves, no matter at what price, to the slaveholding power. They were under the control of the chattel principle. That they were voluntary slaves—putting their necks of their own accord under the yoke, made their servitude all the more degrading.—What, then, could Mr. Birney do, when they required him also to sacrifice his manhood on the altar of slavery? He must maintain his position, or sink to a level with his assailants—into the very depths of infamy. With this alternative before him, he made his choice, promptly, wisely, manfully.

The following paragraphs illustrate the spirit which amidst lawless tumults and fierce threatening, he was enabled to maintain: "The enemies of law," said Mr. Birney, "will adopt a new course—they will hereafter operate privately—their aim will be against the persons of abolitionists. This is now the course. We fear it not. Threats of personal violence, to ourself especially—of seizure and deportation—are common as the air we breathe; nor have they

been withheld which contemplated a still more disgraceful, if not more fatal violence. . . . But law has been prostrated—violence exults over its downfall; the Constitution lies in dishonorable dust, whilst bloody treason flourishes over it. Men are struck dumb, and *speech* is useless for the reformation of abuses that threaten to load with the fetters of the slave themselves and their children.—All this is here—almost upon us, now—and shall it be said, LIFE and FORTUNE and HONOR should not be hazarded, that the CONSTITUTION and LAW and LIBERTY may be restored to their lost thrones, and sway their mild sceptre without a rival? No: this must be done by those who would rather themselves die freemen than live slaves, or our country, glorious as has been her hope, is gone forever.”

Again. “Grievous threats have been made for some time, chiefly against me *personally*. I know not whether the ferocity of the slaveholders and their confederates here, will lead them to attempt the seizure and deportation to the South of my person—or whether they will attempt a sudden and still more effectual removal of me. If such a thing should be *permitted*, I must of course look on it as the way in which an infinitely wise God has appointed for me, as the part I am to act in the great revolution which he has set on foot for the liberation of the oppressed of our land.”

The paper already alluded to, in which a narrative is given of the riotous proceedings against the Liberty of the Press in Cincinnati, is a historical document of inestimable value. A new edition of it ought to be published, and a copy put within the reach of each of our fellow citizens. It can not fail to awaken in every upright and generous reader a variety of conflicting sentiments;—indignation, disgust, abhorrence, at the unbridled insolence of the slaveholding oligarchy; shame, sorrow, and alarm, at the wide-spread and unquestioning servility which prevails among us; admiration, love and confidence, at the magnanimity, wisdom and high-souled heroism of the few like James G. Birney, whose hearts God had touched, and who were nobly prepared for the dreadful crisis on which they were thrown. We need make no apology for introducing here a few extracts from this invaluable paper. The following array of facts well deserve the earnest eye of every student in American history: “During our colonial dependence, the States were all slaveholding States. They did not, as colonies, possess the power of legislation independently of the control of the mother country, exerted either directly or indirectly. Had they

desired, ever so much, to abolish slavery, they could not have done so, by their own independent legislative act. But, it is believed, that prior to the enlightened discussion, and the full establishment of the great principles which led to the American Revolution—principles which are embodied in the Declaration of Independence—the desire was but feeble, in most of the colonies, to see slavery extinguished. It is true, that petitions were presented to the competent authorities of the mother country to restrain the further importation into the colonies of slaves from *Africa*—but none, to abolish, or to mitigate slavery, as it already existed among the petitioners themselves. The history of the times will show, that it was not *repugnance to slaveholding*, as a violation of the great principles of natural justice or of revealed religion, which constituted the true grounds for urging the petitions;—but, rather, that a *few*, who held in their hands the political power of the country, and who had already become possessed of a large amount of slave-labor, might secure to themselves and their families and connections, in perpetuity, a monopoly of such labor. The continued importation of slaves from *Africa* would put it in the power of such citizens as owned none, to become purchasers, and thus interfere with the present and prospective benefits of the monopoly. The criminality in a moral and religious point of view, of slaveholding, exerted but a feeble influence, a century ago, on the public mind of the civilized world. What is so often alledged now, as ‘fanaticism’ against the abolitionists, would have been more remarkable then. The FRIENDS were the only sect to whom the criminality of oppression, in the form of slaveholding appeared, even sixty or seventy years ago, as it is now beginning to be seen by others. By treating it as a violation of religious duty, they succeeded in banishing it entirely from their connection.

“The able moral and political discussion to which the disagreements of the colonies with the mother country gave rise, for many years previous to the Declaration of Independence, brought into general recognition throughout this country, the doctrines of *inalienable rights*, as they have been distinctively termed. Their influence on the most intelligent and patriotic minds, is shown in the fact, that the first Congress, held in 1774, Resolved, *That they would neither import, nor purchase any slave imported after the first day of the next December; after which time they would discontinue the slave-trade, and neither be concerned in it themselves, nor hire their vessels, nor sell their commodities to such as should be concerned in it.*

“In the Congress of 1776, the Declaration of Independence was published—commending itself to the liberal minded every where, by asserting, in opposition to the theory and practice of all existing governments, that *all men were created free, and entitled to life, liberty, and the pursuit of happiness.*

“And afterwords, when forming the Articles of Confederation, 1778, they refused to insert any provision for protecting the power of masters over their slaves, or authorising a master to follow a runaway slave into another State. In the debates, it was said, that ‘the slaves ought to be dismissed, that freemen might fill their places.’

“As soon as the colonies had thrown off the British yoke, their legislative assemblies began their efforts to remove this odious institution. In the northern States, general acts of emancipation were passed—in the southern, acts authorizing individuals to manumit. Massachusetts had asserted in her Declaration of Rights, that *all men were created free and equal.* This was constructed by her courts as putting an end—and it did, in fact, put an immediate end to slavery within her limits. The other New England States with New York, New Jersey and Pennsylvania, pursued more gradual measures for its extinction.

“So strong and rapid had been the influence of the doctrine of ‘inalienable rights,’ as set forth in the Declaration of Independence, that Pennsylvania and all the States north of it—making more than half the whole number—prior to 1787, when the present Constitution was formed, had entered on measures leading to the entire extermination of slavery from among themselves. It was this state of things that (it was erroneously supposed) rendered it *expedient* to adopt the provision, that has been construed to authorize the slaveholder to recapture his slave who has escaped into a free State. Whilst this provision was admitted, shame prevented the framers of the Constitution from expressing the odious grant of power in direct terms. It is conveyed under an ambiguous form of expression, whilst the word *slave* is not to be found in that instrument. Neither is *slavery*, the subject matter of the guaranty, by which it is so often, yet so erroneously asserted, that the ‘system’ of the South is secured to her, to be found in the Constitution. No ‘guaranty’ by the general government could have been thought necessary to the slaveholders—because the validity of the tenure by which they held their slaves had never been drawn in question, and they themselves looked on it as



equally strong, and as unassailable, as the title by which they held any other property. Besides the Southern politicians, who, especially, have regarded the general government as secondary to the State governments, and derivative from them, would not, on this account, have asked from the former a guaranty which the latter were more competent to give. From these considerations, it is believed, that at the formation of the present government, no guaranty of southern 'slavery,' either constitutional or implied, was once seriously thought of—none was demanded—none was offered. And it is not at all improbable, had any such guaranty been offered, in the structure of the general government, it would have been looked upon by the South as not only inefficacious, but insulting, and calling for the haughtiest rejection.

"Soon after the adoption of the present national Union, abolition societies were formed in several of the States. Their avowed object was the total extinction of slavery in the United States. The leaders in those societies were the same men whose hands had just laid the foundations of our national institutions. Their principles coincided entirely with the principles adopted by the abolitionists of the present day. They denounced slavery as an unjust and wicked system—one that all good men should endeavor to overturn. Their acts agreed with their principles. They wrote tracts against slavery—they petitioned Congress to go to the very 'verge' of its Constitutional powers for its final extinction. On these petitions, Congress in the first session, held under the present Constitution, acted, and a series of resolutions was adopted, in which the Constitutional powers of Congress in relation to slavery were accurately defined. The doctrines contained in these resolutions are the doctrines of the abolitionists of the present day, namely:—That until 1808, the importation of slaves could not be prohibited by Congress. That the States possess individually the sole power to emancipate their slaves—That Congress possesses the authority to regulate the slave-trade, and the authority to prohibit it, even prior to 1808, in regard to the supply of foreign nations;—and during the discussion of these resolutions, the right and the duty of Congress to use all means for the abolition of slavery, not expressly prohibited by the Constitution, was strongly urged by the leading members of Congress, (particularly by Messrs. Madison and Gerry,) who had taken part in the formation of the Constitution.

"Now if the institution of slavery was, by mutual com-

promise, to remain inviolate and immovable, would these illustrious men, such as Jay, Franklin, Rush, Madison, and Gerry, have conducted in this manner? Could a compact like the one in question have been formed, without John Jay being informed of it? Had such been the understanding of a compromise between the different States, is it possible, that the sagacious Franklin, who assisted in making the compromise, should never have understood it? Yet Jay and Franklin, in their day, were as undoubted abolitionists, and as active in the formation of abolition societies, as any that can be found in modern times; and it was not owing to any lack of zeal on their part, that their labors were not equally as efficacious as those of abolitionists now, in awakening public attention to this momentous subject. John Jay, during the war of the Revolution, held this memorable language—‘Till America comes into this measure, (the abolition of slavery) her prayers to heaven for liberty will be impious.’ When addressing the Legislature of New York, then a slave State, he told them, that ‘the slaves, though held in bondage by the laws of man were free by the laws of God.’ Franklin and Jay and Rush, in 1787, united in an abolition society, ‘to extend the blessings of freedom to every part of our race.’ The writings published by this society and which contain the identical doctrines of ‘modern abolitionism’ are still circulated by the Anti-Slavery Societies, and form a prominent part of the publications now proscribed as ‘incendiary.’ Through their influence, slavery was abolished in many of the present non-slaveholding States. The foreign slave-trade was prospectively abolished. Washington, previous to his manumission of his own slaves, expressed his conviction that slavery ought to be abolished by the legislative power—a sentiment, the expression of which is now thought a sufficient provocation for dissolving the Union. William Pinkney of Maryland, in the House of Delegates of that State, forty-seven years ago, predicted the very crisis to which we are now arrived. If slavery was to be continued, the principles of liberty, he said, would be corrupted and undermined. ‘The resistance of freemen against oppression,’ said he, ‘will become a struggle of pride and selfishness, not of principle.’ ‘The stream of general liberty will have flown so long through the mire of partial bondage, that it will have become polluted.’ ‘The habit of thinking that the great *rights of human nature* are not so sacred but that they may with impunity be trampled upon, will have prepared men for usurpation; *and those who have*

*been habituated to lord it over others, will become base enough to let others lord it over them.'*

"From these facts, and from all the examination we have had it in our power to make, we have no hesitation in pronouncing the supposed 'compact,' or 'compromise,' to be a groundless fiction, and one, too, of no ordinary malignity. It is nothing less than a libel on the illustrious dead, invented to deprive the living of their dearest and most invaluable rights. It represents the founders of our republican empire, but recently engaged in a most severe conflict for the preservation of those rights which they claimed under the laws of God and nature, in common with all mankind, in assuming their rank among nations, forming a government for a free people, according to the principles of freedom, and for the preservation of those principles, as solemnly contracting that the institution of slavery, every where odious and detestable, should forever remain sacred and inviolable. For the honor of these great and good men—for the honor of human nature itself—we are happy in believing, that a charge involving such gross inconsistency, is utterly groundless. On the contrary, if there is any reliance to be placed on past history, it is certain, at the commencement of our present political system, there was a general belief and expectation, that slavery in these United States would be abolished, and that speedily."

'Whose cheek does not burn—who does not feel within him a relentless and exterminating hostility to slavery, while he reads such words as these: "It is thought necessary to recur to circumstances, which, in the order of time, preceded our appointment as members of the Executive Committee. When the REIGN OF TERROR was introduced into the South, last summer, by the sudden and public execution, without trial, of five American citizens, charged with being '*professional*' gamblers—whilst it was kept up by the open plundering of the national mail—by the pretense of slave insurrections—by the most degrading inflictions—by numberless cruel and unauthorized *scourgings* of such as had either removed from the free States to the South, or were temporarily called thither on business—by the offering of REWARDS for the forcible abduction of peaceable and inoffensive citizens, with the avowed purpose of handing them over to the tender mercies of infuriated slaveholders—by the un concealed, the open and illegal *hangings* of many of our countrymen in the South, on whom popular suspicion had fastened the obnoxious sentiment, that they were opposed to

the system of slavery as it existed there ;—whilst, we say, this thirst for blood, and for the demolition of every safeguard heretofore established for the protection of individual right, was raging among our southern neighbors, the city of Cincinnati was not altogether exempt from the disgraceful infection. Our principal daily newspapers, with, it is believed, but a single exception, sympathized with the flagellators, and tormentors, and murderers of the South, and by their loud shouts cheered them on to further deeds of cruelty and blood. Whilst *one* of them was bestowing unqualified applause on the public scourging of our fellow citizen, young Mr. Dresser, although the perpetrators of the outrage themselves, acknowledged he had violated no law of the State where he suffered—*another*, as if to render forever unnecessary any further proof of plenary consecration to the interests of slaveholders, exultingly advised, that the Reign of Terror—more technically known as ‘Lynch Law’—be set up here in Cincinnati.

“One of our number, who, before the explosion of southern violence, had projected the establishment of a journal in Kentucky, his native State, to be devoted to a full and impartial discussion of the whole subject of slavery as connected with emancipation, was thwarted in his object by the devices of the neighboring slaveholders, and ultimately compelled, by their persecutions, to remove with his family from the State. Looking at the *Constitution* of Ohio, he there saw the fullest, the most honorable, and at the same time, the most solemn condemnation that men who love liberty could pass upon slavery—and that to every one was secured the right—pronounced ‘*indisputable*’—of *speaking, writing, or printing on any subject*, to the investigation of which he might choose to apply the powers of his mind. With this view of *rights* intended to be secured to him, in common with every other citizen, by you, the PEOPLE OF OHIO; and this, too, by the solemn sanction of the highest, the very organic law, which constitutes you a PEOPLE, it was not to be supposed that any one—especially such as were using the same rights in their most wanton latitude—would be found of a temper so unjust, so treasonable, as to deny him also the enjoyment of them. In this he was mistaken; for before he had himself come to the conclusion to transfer the publication of his paper to this city, the newspapers before alluded to, were roused to opposition—were encouraged in their outrageous menaces, and animated to their work of villification and abuse; and this, too, as it was said, and as



subsequent events have proved, by persons who are reckoned as of 'the most respectable class in society,'—owning large real estate in the city—speculators in property, stocks, &c.—merchants, who have commercial connections with southern slaveholders—and artisans, who are mostly employed in manufacturing household furniture, or steamboat, sugar-house, or other heavy machinery, for the South. So highly excited had the several descriptions of people just mentioned become against the proposed publication, and so effectually had they plied their efforts to alarm the great mass of peaceable and law-abiding citizens, who otherwise, would have felt but little concern on the subject; and so desirous was the intended editor to remove even the *occasion* of any disgraceful popular explosion, that he determined to commence the publication *out* of the city, and to continue it there till a fair, and impartial, and generous character could be established for the paper.

“ To establish such a character was considered desirable, not only because it is right in itself—but because it would tend to allay an objection often made to the discussion of the slavery question—that *it was conducted in a fierce and uncharitable spirit*. With this object in view—and further, that all occasion of exciting the disorderly of whatever standing and condition, to any illegal outburst might be taken away, the Philanthropist (the paper alluded to) was commenced at the village of New Richmond, twenty miles above Cincinnati. But this concession, made at no small sacrifice of convenience and pecuniary means, to the spirit of misrule, was followed by but small mitigation of its fury. Although the editor, in the temper of conciliation that he felt, and in the most respectful language he could use, offered to *slaveholders* the use of his columns for the defense of slavery, and gave, in his own manner of treating the subject, satisfactory proof of moderation and fairness—still this did not shield him from a deliberately concerted attempt, set on foot and prosecuted chiefly by the description of persons before mentioned, to *put down his press*. On the first appearance of the Philanthropist, the editor, and those who concurred with him in sentiment, were assailed in terms signally abusive, through two of the business papers of this place, (the Republican and Whig) although they differed widely in their views as political partisans. These journals were, on that occasion, as they have been on a more recent and more remarkable one, the instruments busily set to work by the ‘wealthy and respectable,’ to excite the ignorant and

disorderly to such deeds of mischief as the supposed necessities of the case might call for."

Here we have, what is beyond all price, a fair specimen of the arguments by which our *gentlemen* of property and standing, in different parts of the country, have been accustomed to justify themselves in trampling under swinish hoofs the authority of God and the rights of mankind. The thing is so instructive; we can not afford to lose a syllable. "The note of the day before addressed to James G. Birney, was not received until an answer had been almost prepared to be sent to that addressed to the Corresponding Secretary. It was then concluded, as the time had nearly arrived, for the afternoon meeting of the Market House Committee to send by Christian Donaldson, a message, that we would hold the desired 'conference' with them that evening, at the house of Dr. Colby. At the time appointed all the members of the Executive Committee who lived in the city, with the exception of Dr. Colby who was called off by a professional emergency, met, it is believed, *twelve* out of *thirteen* who composed the Market House Committee. Judge Burnet, the chairman, commenced by giving a long explanation of the manner in which he had been brought into the position he at present occupied. This being disposed of, he spoke of the high degree of excitement which pervaded a large portion—nineteen-twentieths we believe—of the inhabitants of the city. In proof of it he related a conversation he had held with a man apparently of low condition in life, who had accosted him in the street—though altogether unknown to the judge—in tone and phrase dark and mysterious. We will not undertake to give it in the graphic manner in which it was related by the chairman who seemed still to feel the impression, that the mysterious stranger had made on him. We will give only the result—which was that the stranger on parting with the judge said in reference to the destruction of the Philanthropist press, as it was understood, *make haste—(we)—or I am ready to help you.* Judge Burnet professed himself alarmed at the excitement which he believed was in the city—and we do not in the least call in question the sincerity of the declaration, for his whole manner and language gave proof of it. He further stated, that by report, the excitement pervaded not only the city, but that it had gone some distance into the neighborhood; that there were, between Cincinnati and Columbia (6 miles above on the river) 160 men who were banded together, to destroy the Philanthropist establishment—who had their

officers appointed—were fully drilled, and ready, at the first signal, to make the onset. He also stated that for four or five miles the excitement had passed into Kentucky, and that the three towns (Covington, Newport, and Cincinnati) were ready, at any moment, to rise for the same purpose. He further represented that the mob were becoming impatient—were beginning, from what they supposed was the dilatory conduct of the Committee, to lose confidence in that body, and to suspect them of rather a favorable leaning towards the object of their hate. Other gentlemen of the Market House Committee were called on to give their views as to the state of the public mind. There was no material difference among them. One, or more of them spoke of the excitement, already nearly irrepressible, that prevailed, among the workmen employed in the iron foundries and boat yards situated generally near the river—of one of which, with a large number of hands, he himself was the proprietor. Judge Burke said the abolitionists were beginning to be regarded as intending to effect their object by *revolution* and in no other way—all other ways being set down as utterly impracticable.—Rev. Mr. Spencer rose from his seat, when he made *his* speech—apparently a *set* one :—He commenced by saying, there were those present in whose veins flowed the blood of our revolutionary patriots, and who were as desirous as *any other men*, to see no longer in our country the track of a *slave*. He then recited a stanza of poetry condemning slavery,—winding up with taunting the abolitionists for not going to the South, and preaching their doctrines where they might have an opportunity of closing the scene with a glorious martyrdom. Much more was said, in relation to the excitement than we can take room to narrate.

“The next point mooted was the *business of the city*. It was on this ground—and on this solely—that the *merits* of the question seemed to be placed. It was asked by us, if rents were not high—houses to rent scarce, real property on the advance—commercial business brisk for the season of the year, and every body—artisan or common laborer—who would work, employed at high wages? All this was admitted—and it did appear to our plain judgments to be evidence of at least as much prosperity as ought to satisfy reasonable men. But it was insisted on the other hand, that this state of things (*in which all were employed at good wages,*) was not the true criterion of prosperity. All this might be true—yet if abolitionism in Cincinnati had prevented the

South from sending her orders for even more work than could be executed by the mechanics now here, it had injured the city,—because these very orders would be the means of introducing among us more artisans from other places. In the solidity of this reasoning the gentlemen on the other side, no doubt had entire confidence—but it seemed to us not more conclusive, than that of the Kentucky farmer who undertook to prove to a neighbor that he had lost a hundred calves that spring, by not having, *as he might have had*, a hundred cows to produce them.

“It was asked by us, what evidence there was, that the South was withdrawing her business from us because of the existence of abolitionism here? To this it was replied, that it was to be found in various communications and letters from the South. One of the Market House Committee, (Mr. Buchanan) an extensive and prosperous merchant, who has large connections, in the way of business, with the South, said the subject had been frequently mentioned to him by his southern correspondents, and that they were now beginning to present the alternative to this city, either to suppress the abolition discussion, or to be content to lose their southern business. He was asked if the Philanthropist or its editor had ever been specified, as items in the complaint. Mr. B. said they had not—he did not know that either of them was particularly known at the South—but the complaint was one of general character, *that the anti-slavery discussion was entertained in Cincinnati.*

“On Judge Burnet’s remarking, that abolitionists were injuring the property-holders of Cincinnati, he was asked to specify how *he* was injured. He stated, in reply, that four or five years ago—[*this was between two and three years before the commencement of the abolition question in this place*] it was customary for thirty or forty families from the South, attended by their servants who were indispensable to them in their excursions, to spend a great part of the summer in Cincinnati. That, since the abolitionists had commenced their operations, the people of color had become so bold in enticing away the servants of the southern visitors that they would no longer venture among us; [Compare this with the following from the Cincinnati Republican of August 2. ‘Our hotels and boarding houses are always crowded, and hundreds of southern families who contemplate a sojournment of some weeks in the Queen City of the West, have been compelled to relinquish their intentions for want of accommodations,’] and that the abolitionists had contributed to



make the people of color much more impudent to the *whites* than formerly. Now, if a man was wise, when he saw four or five of them on the pavement, he would diverge into the street to pass around them to avoid their insolence in not giving the way—and that *he* had been jostled by them on the side-walks. This was the account, the chairman gave of the injury, *he* was suffering from abolitionists.

“The chairman having professed satisfactory knowledge of the measures and objects of the anti-slavery societies—and stated that there was no one who was more a friend of emancipation than he was, and after alledging that African colonization was the only feasible way of accomplishing the extirpation of slavery amongst us, and having uttered sentiments in reference to the principles and results of abolitionism that seemed unusually crude for one of his station in society—and being seconded in his opinion by another of the Market House Committee,—it was remarked by one of our number, that the entertainment of *such* sentiments by *such* men convinced him more forcibly than he had yet been, of having the whole subject *discussed*. He then proposed, that, if the members of the Market House Committee would give the influence of their recommendation to a meeting, to be held in some church of the city for that purpose, he [the member alluded to] would give an exposition of anti-slavery principles, and be willing to hear any arguments that might be offered against them. It was at once replied, that such a meeting could not be held in the city, that the people would hear no public discussion on slavery, and that the speaker would lose his life in attempting to discuss it. No change was produced on the Market House Committee by the assurance of the member that with their sanction for the call of such a meeting, he was willing to hazard all personal peril to himself.

“The conversation was at length turned to the main object of the meeting—the *discontinuance of the Philanthropist*. The first suggestions were, that it should be ‘postponed,’ or ‘suspended for a time.’ All such modified propositions, however, were at length, put aside as useless—and the demand made, of an *absolute discontinuance*, with the certain alternative in case of refusal, of a mob unusual in its numbers, determined in its purpose, and desolating in its ravages. The chairman expressed it as his opinion, that it would be one of unprecedented character—that it would consist of *four or five thousand persons*, bent on the wide destruction of property, and that *two-thirds of the property-holders* of the

city would join it. That it would be utterly vain for any man or set of men to attempt to restrain it—it would destroy any one who would set himself in opposition to it.

“In order to ascertain what was the temper of the Market House Committee gentlemen, themselves, they were asked, whether *if a mob could be averted* *THEY would be content that the publication of the Philanthropist should be continued?* The question was scarcely uttered, when the chairman and several of the other members replied unhesitatingly, *they would not.* One of them qualified what he said, by saying he would be content, if he could be satisfied that it would produce *no injury to the city in any way.* It was next asked, if they had read the Philanthropist, and if they had, whether the objection to its continuance was made on the ground of there being anything exceptionable in the *manner and spirit* of conducting it. The answer on the part of one of the Committee was, that he had read several of the latter numbers—another said that *he* had read portions of the last three or four numbers—another, that he had read a column or two, or an article or two, in some one of the first numbers. This was the whole amount of knowledge, on the part of the Committee, as to the *manner* in which the Philanthropist conducted the slavery discussion. But it was further added on their part—that the *manner and spirit* of the paper had nothing to do with the question—it was the *discussion of slavery here*, that was thought to be injuring the business of the city. That the paper was believed to be a prominent instrument in carrying on this discussion—that therefore, its *absolute discontinuance* was called for—that the public sentiment would be satisfied with nothing short of this, and that it was in such a condition that it could not be reasoned with.”

The reply which Mr. Birney and his friends returned, must not be withheld. “Whilst we feel ourselves constrained altogether to decline complying with your request, as submitted last evening, *to discontinue the Philanthropist*, we think it but just to ourselves, and respectful to our fellow citizens generally, to offer a brief exposition of the reasons that persuade us to this course.

“1. We decline complying—not so much from the fear that the particular cause in which our press is employed may be injured—but because compliance involves a tame surrender of the FREEDOM OF THE PRESS—THE RIGHT TO DISCUSS.

“2. The Philanthropist is the acknowledged organ of some twelve thousand, or more, of our fellow citizens of Ohio, who believe that slavery, as it exists in our country, is,

altogether incompatible with the permanency of her institutions ; who believe that the *slavery* of the *South* or the *liberty* of the *North* must cease to exist ; and who intend to do, what in them lies, to bring about a happy and a peaceful termination of the former—and this as speedily as facts, and arguments, and appeals to the consciences and understandings of the slaveholders can be made instrumental to effect it.

“ 3. The Philanthropist is the only journal in this city or neighborhood, through which these facts, and arguments, and appeals can be fully addressed to the community. It has been conducted with fairness and moderation, as may be abundantly proved by the acknowledgements of those who are opposed to its objects. It has invited the slaveholders themselves to the use of its columns for the defense of slavery, and has given up to a republication of their arguments a large share of its space.

“ To discontinue such a paper under existing circumstances, would be a tacit submission to the exorbitant demand of the South, that *slavery* shall never more be mentioned among us.

“ 4. We decline complying with your request—because if it has originated among our own citizens, it is an officious and unasked for intrusion on the business of others—If among the citizens of other States, it is an attempt at dictation as insolent and high-handed on their part, as a tame submission to it would be base and unmanly on ours.

“ 5. We decline complying with your request—because we would not preclude ourselves, and others, from discussing in the most advantageous manner a subject, which, by the acknowledgement of all is of momentous consequence, and which is now occupying the minds of the whole nation.

“ 6. We decline complying—because the demand is virtually the demand of slaveholders, who, having broken down all the safeguards of liberty in their own States, in order that slavery may be perpetuated, are now, for the fuller attainment of the same object, making the demand of us to follow their example.

“ [The two remaining reasons were omitted—unintentionally, we have no doubt—in the published report of the Market House Committee. They were part of the letter sent to the Market House Committee, and are here supplied.]

“ 7. We decline complying—because the attempt is now first made in our case, formally and deliberately to put down the freedom of speech and of the Press. We are, to be sure, the object of the attack—but there is not a freeman in the State whose rights are not invaded, in any assault which

may be made upon us, for refusing to succumb to an imperious demand to surrender our rights.

"8. We believe that a large portion of the people of Cincinnati are utterly opposed to the prostration of the liberty of the Press—and that there is among us—whatever may be said to the contrary—enough of correct and sober feeling to uphold the laws, if our public officers faithfully discharge their duty.

"With these reasons—to which many more might be added, did time permit—we leave the case with you;—expressing, however, our firm conviction, should any disturbance of the peace occur, that you, gentlemen, must be deeply, if not almost entirely, responsible for it, before the bar of sober and enlightened public opinion."

The following is a truly striking and impressive view of this negotiation: "Thus terminated one of the most singular negotiations—whether we regard the *subject matter—the causes leading to it—or the parties*—that has yet been recorded in the annals of our country. 1. The *subject matter* was, *the right to investigate and discuss truth*—a right bestowed by the CREATOR on man as his intelligent creature, to use as freely as he walks the earth, or breathes the air—the exercise of which is required of him as a *duty*—a right which, as an accountable being, he has no power voluntarily to relinquish, any more than he has voluntarily to sell his liberty, or to part with his life—a right so clear that the *people of Ohio* have, in their Constitution, pronounced it "INDISPUTABLE"—so inestimable, they have adopted it as one of the ELEMENTS of their government, and so liable to be invaded by *power*, that they have attempted to secure its freest exercise by the most stable, the most solemn sanctions. 2. The reasons for demanding its surrender—slaveholders called for it—*oppression* in the South having prostrated there, all legal barriers of individual right and personal safety; having overthrown within her own limits the freedom of the Press and of speech—the *right to discuss*—in order that her reign might be perpetuated, demanded it; a mob of three or four hundred—a mere fragment of our population—the very feculence of the city, countenanced and encouraged to the deed by leading and influential men among us, to whom the exercise of the right of discussion was displeasing, demanded it. 3. The parties to it—on the one hand, ten thousand of our fellow citizens, not, to be sure [with but few exceptions] *leading and influential*, but yet of the freemen, the plain and honest yeomanry of Ohio, who



within the limits of the Constitution are contending for its very citadel—who are fighting, only with the weapons of truth, for that liberty which becomes the more precious the more it is endangered by the assaults of its enemies. On the other—there are merchants and manufacturers, closely united with the slaveholder—lawyers and judges—officers of the government, and ministers of the gospel—there are wealth and influence, slaveholding servility and aristocratic pride—all, marshaling into their service for the *work*, a band fearless of God and regardless of man. Surely, such an attempt to trample under foot the liberties of our people—so deliberate—so carefully matured, and backed by such an amount of moral, intellectual, and pecuniary power, has rarely been made in this country!"

What a beautiful specimen have we here of those RULERS, who are *such* "a terror to evil-doers," and *such* "a praise to them that do well!" The following, taken down by a gentleman who was present, has been furnished as an accurate report of the Mayor's speech.

"Gentlemen—It is now late at night, and time we were all in bed—by continuing longer, you will disturb the citizens, or deprive them of their rest, besides robbing yourselves of rest. No doubt, it is your intention to punish the guilty, and leave the innocent. But if you continue longer, you are in danger of punishing the innocent with the guilty, which I am convinced no one in Cincinnati would wish to do. We have done enough for one night. ['Three cheers for the Mayor.'] The abolitionists themselves, must be convinced themselves by this time, what public sentiment is, and that it will not do any longer to disregard, or set it at naught. [Three cheers again.] As you can not punish the guilty without endangering the innocent, I advise you all to go home. [Cries of home! home! from the crowd drowned the balance of his harangue.]"

The narrative concludes with the following weighty words: Surely "the inspiration of the Almighty" is not yet withdrawn from mankind. "In the foregoing pages we have endeavored to present to you an impartial account of an attack, the most formidable—because of the *character* of the persons concerned, and of the *deliberation* with which it was planned—that has yet been made on our common liberties. A few words more, and we have done. Notwithstanding the *right to discuss* belongs to MAN, as indisputably as the right to use his senses, or the organs of his body in their appropriate functions—and the exercise of it is, as it ought ever to be,

free from all foreign control, save that which makes us responsible for the use of it in invading other's rights no less sacred than our own—yet have we been, again and again, held up by the slavery presses of this city as *obstinate, contumacious*, for not at once surrendering it on the demand of the Market House Committee. This charge has been so confidently preferred, and so often reiterated, that, we believe, the impression is made on many, that our conduct *has* been actuated by the spirit to which it is ascribed. They have been led to judge of our course, rather by the fury of the onset to which we have been exposed, than by the calm steadfastness with which it has been met. We ask, if *any* property can be more rightfully ours, than that which the Market House Committee demanded of us to lay down? *The right to discuss* is granted to us by God, and secured to us by the highest law of the land. Had the Market House Committee seen proper to demand, in the name of their constituents, the absolute surrender of our *houses* and our *goods*—backing their demand by the menace, that if they were not *voluntarily* yielded, they would be *forcibly* taken—would their demand been less unreasonable? Have we any higher title to *these* subjects of property, than the gift of God and the security of the Constitution? Ought we, then, to have rendered a servile compliance? Or ought we not rather (as we did) to have firmly repelled the unjust demand, choosing to suffer the consequences, however disastrous to ourselves, in order that you, the proper correctors, by legal modes, of all public wrongs, might be made fully acquainted with the dishonor in which the majesty of the LAW was held, and the dangers with which our most precious rights were threatened, by a lawless and fierce aristocracy?

“These same organs of the South charge the undersigned, with answering the Market House Committee in terms of ‘*insult and defiance*.’ Whilst we fully believe that no Committee ever came on an errand more surcharged with wrong, and one which furnished on its very face stronger grounds of palliation for the treatment complained of, yet are we persuaded, on a review of our communications addressed to them, that they contain nothing but a firm and respectful expression of a lawful and patriotic determination. The controversy to which we were called was too high—the principles for which we contended were of a dignity too lofty, to be stained by any resort to insult or abuse. And that our plainness of speech should be construed into ‘*insult and defiance*’ shows that our editorial upholders of slavery

begin already to demand from us that servility to their aristocratic instigators which, as republicans yet free, we can render to no man or set of men, however influential, and which ought no where in this country to be looked for, except it be in the South, and under that 'system,' to the support of which they would seem so entirely to have consecrated their labors.

"Notwithstanding the unusual outburst of lawless aristocratic violence to which our peaceful, yet decided support of the *freedom of the Press—of liberty of speech—of the right to discuss*—has exposed us, we have lost no confidence in the rectitude of our principles, nor in the judgment which you, and those which may succeed us, will pass on our conduct. Unconvinced by the *force* with which our arguments have been replied to, we shall still continue fearlessly to maintain, and publicly to inculcate, the great principles of liberty incorporated in the Constitutions of our State and general governments—believing, that if ever there was a time, it is now come, when our republic, and with her the cause of universal freedom, is in a strait, where every thing that ought to be periled by the patriot should be freely hazarded for her relief."

The strong and elevated character—the genial and powerful influence of the Philanthropist may easily be inferred from the paragraphs from the pen of Mr. Birney, with which these pages are enriched. It is enough to say, that his image shone upon his editorial articles. And how well the paper has been conducted by the present editor, and what service it has rendered to the cause of Freedom, its readers are ready gratefully to acknowledge.

From Cincinnati, Mr. Birney removed, in the fall of 1837, to New York. He was most cordially welcomed by his brethren there, to whom the anti-slavery public confided special responsibilities. He was a member of the Executive Committee of the American Anti-Slavery Society, and one of its Corresponding Secretaries. Here his wisdom was brought into full requisition; here his powers had free play. He occupied a commanding position, and did it honor.

While in New York, he held a correspondence in which thousands took a deep and lively interest—by which thousands were greatly instructed and refreshed—with the Hon. Mr. Elmore, member of Congress from South Carolina. The occasion is clearly described in the following words of Mr. Birney: "In January, (1838) a tract entitled '*Why work for the slave?*' was issued from this office by the agent



for the *Cent-a-week-Societies*. A copy of it was transmitted to the Hon. John C. Calhoun;—to *him*, because he has seemed, from the first, more solicitous than the generality of southern politicians, to possess himself of accurate information about the anti-slavery movement. A note written by me accompanied the tract, informing Mr. Calhoun why it was sent to him.

Not long afterwards, the following letter was received from the Hon. F. H. Elmore, of the House of Representatives in Congress. From this and another of his letters just now received, it seems, that the slaveholding representatives in Congress, after conferring together, appointed a committee, of their own number, to obtain authentic information of the intentions and progress of the anti-slavery associations, --and that Mr. Elmore was selected, as the *South Carolina* member of the Committee.

The inquiries of the Committee were reduced to fourteen particulars, bearing directly upon the designs, methods, hopes and resources of the American Anti-Slavery Society. To these, one by one, Mr. Birney returned particular and full replies. The following paragraph, adapted to the question, "Do your or similar societies exist in the colleges and other literary institutions of the non-slaveholding States, and to what extent?" awakens in the reader painful reflections. What an illustration of the extent to which the public mind had become infected with the spirit of slavery! "Strenuous efforts have been made and they are still being made, by those who have the direction of most of the literary and theological institutions in the free States, to bar out our principles and doctrines, and prevent the formation of societies among the students. To this course they have been prompted by various, and possibly, in their view, good motives. One of them, I think it not uncharitable to say, is to conciliate the wealthy of the South, that they may send their sons to the North, to swell the college catalogues. Neither do I think it uncharitable to say, that in this we have a manifestation of that aristocratic pride, which, feeling itself honored by having entrusted to its charge the sons of distant, opulent, and distinguished planters, fails not to dull every thing like sympathy for those whose unpaid toil supplies the means so lavishly expended in educating southern youth at northern colleges. These efforts at suppression or restraint, on the part of Faculties and Boards of Trustees, have heretofore succeeded to a considerable extent. Anti-slavery societies, notwithstanding, have been formed in a



few of our most distinguished colleges and theological seminaries. Public opinion is beginning to call for a relaxation of restraints and impositions; they are yielding to its demands; and *now*, for the most part, sympathy for the slave may be manifested by our generous college youth, in the institution of anti-slavery societies, without any downright prohibition by their more politic teachers. College societies will probably increase more rapidly hereafter; as, in addition to the removal or relaxation of former restraints, just referred to, the murder of Mr. Lovejoy, the assaults on the freedom of speech and of the Press, the prostration of the right of petition in Congress, &c. &c., all believed to have been perpetrated to secure slavery from the scrutiny that the intelligent world is demanding, have greatly augmented the number of college abolitionists. They are, for the most part, the diligent, the intellectual, the religious of the students, United in societies, their influence is generally extensively felt in the surrounding region; *dispersed*, it seems scarcely less effective."

In illustrating the "means and the power," by which the friends of Freedom "proposed to carry their views into effect," the following words of Mr. Birney can hardly fail to impress the reader deeply. "Our 'means' are the Truth—the 'Power' under whose guidance we propose to carry our views into effect, is, the Almighty. Confiding in these means, when directed by the spirit and wisdom of Him, who has so made them as to act on the hearts of men, and so constituted the hearts of men as to be affected by them, we expect, 1. To bring the CHURCH of this country to repentance for the sin of OPPRESSION. Not only the southern portion of it that has been the oppressor—but the northern, that has stood by, consenting for half a century, to the wrong. 2. To bring our countrymen to see, that for a nation to persist in injustice, is but to rush on its own ruin; that to do justice is the highest expediency—to love mercy its noblest ornament. In other countries, slavery has sometimes yielded to fortuitous circumstances, or been extinguished by physical force. We strive to win for truth the victory over error, and on the broken fragments of slavery to rear for her a temple, that shall reach to the heavens, and toward which all nations shall worship.

"It has been said, that the slaveholders of the South will not yield, nor hearken to the influence of the truth on this subject. We believe it not—nor give we entertainment to the slander that such an unworthy defense of them implies.

We believe them *men*,—that they have understandings that arguments will convince—consciences to which the appeals of justice and mercy will not be made in vain. If our principles be true—our arguments right—if slaveholders be men—and God have not delivered over our guilty country to the retributions of the oppressor, not only of the STRANGER but of the NATIVE—our success is certain.”

And when the demand is made: “Are your hopes and expectations of success increased or lessened by the events of the last year, and especially by the action of this Congress? And will your exertions be relaxed or increased?” The following reply is urged. We hardly need ask our readers to weigh it well. Where shall we look for words more alive with significance? “The events of the last year, including the action of the present Congress, are of the same character with the events of the eighteen months which immediately preceded it. In the question before us, they may be regarded as one series. I would say, answering your interrogatory generally, that none of them, however unpropitious to the cause of the abolitionists they may appear to those who look at the subject from an opposite point to the one *they* occupy, seem, thus far, in any degree to have lessened their hopes and expectations.—The events alluded to have not come altogether unexpected. They are regarded as the legitimate manifestations of slavery—necessary, perhaps, in the present dull and unapprehensive state of the public mind as to human rights, to be brought out and spread before the people, before they will sufficiently revolt against slavery itself.

“1. They are seen in the CHURCH, and in the practice of its individual members. The Southern portion of the American church may now be regarded as having admitted the dogma, that *slavery is a divine institution*. She has been forced by the anti-slavery discussion into this position—either to cease from slaveholding, or, formally to adopt the only alternative, that slaveholding is right. She has chosen the alternative—reluctantly, to be sure, but substantially, and within the last year almost unequivocally. In defending what was dear to her, she has been forced to cast away her garments, and thus to reveal a deformity, of which she herself before was scarcely aware, and the existence of which others did not credit. So much for the action of the Southern church as a body. On the part of her MEMBERS, the revelation of a time-serving spirit, that not only yielded to the ferocity of the multitude, but fell in with it, may be reckoned among the events of the last three years. In-

stances of this may be found in the attendance of the 'clergy of all denominations,' at a tumultuous meeting of the citizens of Charleston, S. C., held in August, 1835, for the purpose of reducing to *system* their unlawful surveillance and control of the post-office and mail; and in the alacrity with which they obeyed the popular call to dissolve the Sunday schools for the instruction of the colored people. Committees, (tribunals organized in opposition to the laws of the States where they exist,) are uniting with the merciless and profligate in passing sentence consigning to infamous and excruciating, if not extreme punishment, persons, by their own acknowledgement, innocent of any unlawful act. Out of sixty persons that composed the Vigilance Committee which condemned Mr. Dresser to be scourged, TWENTY-SEVEN were members of churches, and one of them a professed *teacher* of Christianity. A member of the Committee stated afterwards, in a newspaper of which he was the editor, that Mr. D. *had not laid himself liable to any punishment known to the laws.* Another instance is to be found in the conduct of the Rev. W. S. Plumer, of Virginia. Having been absent from Richmond, when the ministers of the gospel assembled together, formally to testify their abhorrence of the abolitionists, he addressed the chairman of the Committee of Correspondence a note in which he uses this language:—'If abolitionists will set the country in a blaze, it is but fair that they should have the first warming at the fire. Let them understand that they will be caught, if they come among us, and they will take good heed to keep out of our way.' Mr. P. has no doubtful standing in the Presbyterian church with which he is connected. He has been regarded as one of its brightest ornaments. To drive the slaveholding church and its members from the equivocal, the neutral position from which they had so long defended slavery—to compel them to elevate their practice to an even height with their avowed principles, or to degrade their principles to the level of their known practice, was a preliminary, necessary in the view of abolitionists either for bringing that part of the church into the common action against slavery, or as a ground for treating it as confederate with oppressors. So far, then, as the action of the church, or of its individual members, is to be reckoned among the events of the last two or three years, the abolitionists find in it nothing to lessen their hopes or expectations.

"2. The abolitionists believed from the beginning, that the slaves of the South were (as slaves are every where)

unhappy, *because of their condition*. Their adversaries denied it, asserting that as a class they were 'contented and happy.' The abolitionists thought that the arguments against slavery could be made good so far as this point was concerned, by either *admitting* or *denying* the assertion.

"*Admitting* it, they insisted that nothing could demonstrate the turpitude of any system more surely than the fact that MAN—made in the image of God—but a little lower than the angels—crowned with glory and honor, and set over the works of God's hands—his mind sweeping in an instant from planet to planet, from the sun of one system to the sun of another, even to the great centre sun of them all—contemplating the machinery of the universe 'wheeling unshaken' in the awful mysterious grandeur of its movements 'through the void immense'—with a spirit delighting in upward aspiration—bounding from earth to heaven—that seats itself fast by the throne of God, to drink in the instructions of Infinite Wisdom, or flies to execute the commands of Infinite Goodness—that such a being could be made 'contented and happy' with 'enough to eat, and drink, and wear,' and shelter from the weather—with the bare provision that satisfies the brutes, is (say the abolitionists) enough to render superfluous all other arguments for the *instant* abandonment of a system whose appropriate work is such infinite wrong.

"*Denying* that 'the slaves are contented and happy,' the abolitionists have argued, that, from the structure of his moral nature—the laws of his mind—man can not be happy in the fact, that he is *enslaved*. True, he may be happy in slavery, but it is not slavery that makes him so—it is virtue and faith, elevating him above the afflictions of his lot. The slave has a will, leading him to seek those things which the Author of his nature has made conducive to its happiness. In these things, the will of the master comes in collision with his will. The slave desires to receive the rewards of his own labor; the power of the master wrests them from him. The slave desires to possess his wife, to whom God has joined him, in affection; to have the superintendence, and enjoy the services, of the children whom God has confided to him, as a parent to train them by the habits of the filial relation, for the yet higher relation that they may sustain to him as their heavenly Father. But here he is met by the opposing will of the master, pressing *his* claims with irresistible power. The ties that heaven has sanctioned and blessed—of husband and wife, of parent and child—are all sundered in a moment



by the master, at the prompting of avarice, or luxury, or lust; and there is none that can stay his ruthless hand, or say unto him, 'What doest thou?' The slave thirsts for the pleasures of refined and elevated intellect; the master denies to him the humblest literary acquisition. The slave pants to know something of that still higher nature that he feels burning within him; of his present state, his future destiny, of the Being who made him, to whose judgment-seat he is going. The master's interests cry, 'No! Such knowledge is too wonderful for you; it is high; you can not attain unto it.' To predicate *happiness* of a class of beings, placed in circumstances where their will is everlastingly defeated by an irresistible power, the abolitionists say, is to prove them destitute of the sympathies of *our* nature—not *human*. It is to declare with the atheist, that man is independent of the goodness of his Creator for his enjoyments; that human happiness calls not for any of the appliances of his bounty; that God's throne is a nullity, himself a superfluity.

"But, independently of any abstract reasoning drawn from the nature of moral and intellectual beings, *FACTS* have been elicited in the discussion of the point before us, proving slavery every where, (especially southern slavery, maintained by enlightened Protestants of the nineteenth century,) replete with torments and horrors; the direst form of oppression that upheaves itself before the sun. These facts have been so successfully impressed on a large portion of the intelligent mind of the country, that the slaves of the South are beginning to be considered as those whom God emphatically regards as the 'poor,' the 'needy,' the 'afflicted,' the 'oppressed,' the 'bowed down;' and for whose consolation he said, 'Now will I arise; I will set him in safety from him that puffeth at him.'

"This state of the public mind has been brought about within the last two or three years; and it is an event which, so far from lessening, greatly animates, the hopes and expectations of abolitionists.

"3. The abolitionists believed from the first, that the tendency of slavery is to produce, on the part of the whites, looseness of morals, disdain of the wholesome restraints of law, and a ferocity of temper, found, only in solitary instances, in those countries where slavery is unknown. They were not ignorant of the fact that this was disputed; nor that the 'CHIVALRY OF THE SOUTH' had become a cant phrase, including all that is high-minded and honorable among men; nor, that it had been formerly asserted in our national legis-

lature, that slavery, as it exists in the South, 'produces the highest toned, the purest, best organization of society, that has ever existed on the face of the earth.' Nor were the abolitionists unaware that these pretensions, proving any thing else but their own solidity, had been echoed and re-echoed so long by the unthinking and the interested at the North, that the character of the South had been injuriously affected by them, till she began boldly to attribute her *peculiar* superiority to her *peculiar* institution, and thus to strengthen it. All this the abolitionists saw and knew. But few others saw and understood it as they did. The revelations of the last three years are fast dissipating the old notion, and bringing multitudes in the North to see the subject as the abolitionists see it. When *southern chivalry*, and the *purity* of southern society are spoken of now, it is at once replied, that a large number of the slaves show, by their *color*, their indisputable claim to white paternity; that, notwithstanding their near consanguineous relation to the whites, they are still held and treated in all respects as *slaves*. Nor is it forgotten now, when the claims of the South to 'hospitality' are pressed, to object, because they are grounded on the unpaid wages of the laborer; on the robbery of the poor. When 'southern generosity' is mentioned, the old adage, 'be just before you are generous,' furnishes the reply. It is no proof of generosity, (say the objectors,) to take the bread of the laborer to lavish it in banquetings on the rich. When 'southern chivalry' is the theme of its admirers, the hard-handed but intelligent working men of the North asks, if the espionage of southern hotels, and of ships and steamboats, on their arrival at southern ports; if the prowl, by day and by night, for the solitary stranger, suspected of sympathizing with the enslaved, that he may be delivered over to the mercies of a vigilance committee, furnishes the proof of its existence; if the unlawful importation of slaves from Africa, furnished the proof; if the abuse, the scourging, the hanging on suspicion, without law, of friendless strangers, furnish the proof; if the summary execution of slaves and of colored freemen, almost by the score, without legal trial, furnish the proof; if the cruelties and tortures to which *citizens* have been exposed, and the burning to death of slaves by slow fires, furnish the proof. All these things, says he, furnish any thing but proof of *true* hospitality, or generosity, or gallantry, or purity, or chivalry.

"Certain it is, that the time when southern slavery derived countenance at the North, from its supposed connection with 'chivalry,' is rapidly passing away. "Southern chivalry' will

soon be regarded as one of the by-gone fooleries of a less virtuous age. It will soon be cast out—giving place to the more reasonable idea, that the denial of wages to the laborer, the selling of men and women, the whipping of husbands and wives in each other's presence, to compel them to unrequited toil, the deliberate attempt to extinguish mind, and consequently to destroy the soul—is among the highest offenses against God and man—unspeakably mean, despicable and ungentlemanly.

“The impression made on the minds of the people as to this matter, is one of the events of the last two or three years that does not contribute to lessen the hopes or expectations of abolitionists.

“4. The ascendancy that slavery has acquired and exercises in the administration of the government, and the apprehension now prevailing among the sober and intelligent, irrespective of party, that it will soon overmaster the Constitution itself, may be ranked among the events of the last two or three years that affect the course of abolitionists. The abolitionists regard the Constitution with unabated affection. They hold in no common veneration the memory of those who made it. They would be the last to brand Franklin and King and Morris and Wilton and Sherman and Hamilton with the ineffaceable infamy of attempting to engraft on the Constitution, and therefore to *perpetuate*, a system of oppression in absolute antagonism to its high and professed objects, one of which their own practice condemned,—and this, too, when they had scarcely wiped away the dust and sweat of the Revolution from their brows. Whilst abolitionists feel and speak thus for our Constitutional fathers, they do not justify the dereliction of principles into which they were betrayed, when they imparted to the work of their hands *any* power to contribute to the continuance of such a system. They can only palliate it, by supposing that they thought slavery was already a waning institution, destined soon to pass away. In their time, (1787,) slaves were comparatively of little value—there being then no great slave labor staple (as cotton is now) to make them profitable to the holders.

“Had the circumstances of the country remained as they then were, slave labor,—always and every where the most expensive—would have disappeared before the competition of free labor. They had seen too, the principles of liberty embodied in most of the State Constitutions; they had seen slavery utterly forbidden in that of Vermont—instantaneous-



ly abolished in that of Massachusetts—and laws enacted in the other New England States and in Pennsylvania, for its gradual abolition. Well might they have anticipated, that Justice and Humanity, now starting forth with fresh vigor, would, in their march sweep away the whole system; more especially, as freedom of speech and the Press—the legitimate abolisher not only of the acknowledged vice of slavery, but of every other that time should reveal in our institutions or practices—had been fully secured to the people. Again; power was conferred on Congress to put a stop to the African slave trade, without which it was thought at that time, to be impossible to maintain slavery, as a system, on this continent—so great was the havoc it committed on human life. Authority was also granted to Congress to prevent the transfer of slaves as articles of commerce, from one State to another; and the introduction of slavery into the territories. All this was crowned by the power of refusing admission into the Union, to any new State, whose form of government was repugnant to the principles of liberty set forth in that of the United States. The faithful execution, by Congress, of these powers, it was reasonably enough supposed, would, at least, prevent the growth of slavery, if it did not entirely remove it. Congress did, at the set time, execute *one* of them—deemed, then, the most effectual of the whole; but as it has turned out, the least so.

“The effect of the interdiction of the African slave trade was, not to diminish the trade itself, or greatly to mitigate its horrors; it only changed its name from African to American—transferred the seat of commerce from Africa to America—its profits from African princes to American farmers. Indeed, it is almost certain, if the African slave trade had been left unrestrained, that slavery would not have covered so large a portion of our country as it now does. The cheap rate at which slaves might have been imported by the planters of the South, would have prevented the rearing of them for sale, by the farmers of Maryland, Virginia, and the other slave-selling States. If these States could be restrained from the *commerce* in slaves, slavery could not be supported by them for any length of time, or to any considerable extent. They could not maintain it, as an economical system, under the competition of free labor. It is owing to the *non-user* by Congress, or rather to their unfaithful application of their power to the other points, on which it was expected to act for the limitation or extermination of slavery, that the hopes of our fathers have not been realized; and



that slavery has, at length, become so audacious, as openly to challenge the principles of 1776—to trample on the most precious rights secured to the citizen—to menace the integrity of the Union and the very existence of the government itself.

“Slavery has advanced to its present position by steps that were, at first gradual, and, for a long time, almost unnoticed; afterwards, it made its way by intimidating or corrupting those who ought to have been forward to resist its pretensions. Up to the time of the ‘Missouri Compromise,’ by which the nation was defrauded out of its honor, slavery was looked on as an evil that was finally to yield to the expanding and ripening influences of our Constitutional principles and regulations. Why it has not yielded, we may easily see, by even a slight glance at some of the incidents in our history.

“It has already been said, that we have been brought into our present condition by the unfaithfulness of Congress, in not *exerting* the power vested in it, to stop the domestic slave trade, and in the *abuse* of the power of admitting ‘*new States*’ into the Union. Kentucky made application in 1792, with a slaveholding Constitution in her hand. With what a mere *technicality* Congress suffered itself to be dragged into torpor:—*She was part of one of the ‘original States’—and therefore entitled to all their privileges.*

“One precedent established, it was easy to make another. Tennessee was admitted in 1796, without scruple, on the same ground.

“The next triumph of slavery was in 1803, in the purchase of Louisiana, acknowledged afterwards, even by Mr. Jefferson who made it, to be unauthorized by the Constitution—and in the establishment of slavery throughout its vast limits, actually and substantially under the auspices of that instrument which declares its only object to be—‘to form a more perfect union, establish JUSTICE, insure DOMESTIC TRANQUILITY, provide for the common defense, promote the general welfare, and secure the blessings of LIBERTY to ourselves and our posterity.’

“In this case, the violation of the Constitution was suffered to pass with but little opposition, except from Massachusetts, because we were content to receive in exchange, multiplied commercial benefits and enlarged territorial limits.

“The next stride that slavery made over the Constitution was in the admission of the State of Louisiana into the Union. *She* could claim no favor as a part of an ‘original

State.' At this point, it might have been supposed, the friends of Freedom and of the Constitution according to its original intent would have made a stand. But no : with the exception of Massachusetts, they hesitated and were persuaded to acquiesce, because the country were just about entering into a war with England, and the crisis was unpropitious for discussing questions that would create divisions between different sections of the Union. 'We must wait till the country was at peace.' Thus it was that Louisiana was admitted without a controversy.

"Next followed, in 1817 and 1820, Mississippi and Alabama—admitted after the example of Kentucky and Tennessee, without any contest.

"Meantime, Florida had given some uneasiness to the slaveholders of the neighboring States ; and for their accommodation chiefly, a negotiation was set on foot by the government to purchase it.

"Missouri was next in order in 1821: She could plead no privilege, on the score of being part of one of the original States ; the country too, was relieved from the pressure of her late conflict with England ; it was prosperous and quiet ; every thing seemed propitious to a calm and dispassionate consideration of the claim of slaveholders to add props to their system, by admitting indefinitely new slave States to the Union. Up to this time, the 'EVIL' of slavery had been almost universally acknowledged and deplored by the South, and its termination (apparently) sincerely hoped for. By this management its friends succeeded in blinding the confiding people of the North. They thought for the most part, that the slaveholders were acting in good faith. It is not intended by this remark to make the impression, that the South had all along pressed the admission of new slave States, simply with a view to the increase of its own relative power. By no means : slavery had insinuated itself into favor because of its being mixed up with (other) supposed benefits—and because its ultimate influence on the government was neither suspected nor dreaded. But on the Missouri question, there was a fair trial of strength between the friends of slavery and the friends of the Constitution. The former triumphed ; and by the prime agency of one whose raiment, the remainder of his days, ought to be sackcloth and ashes,—because of the disgrace he has continued on the name of his country, and the consequent injury he has inflicted on the cause of Freedom throughout the world. Although all the different administrations, from the first organ-

ization of the government, had, in the indirect manner already mentioned, favored slavery,—there had not been on any previous occasion, a direct struggle between its pretensions and the principles of liberty engrafted on the Constitution. The friends of the latter were induced to believe, whenever they should be arrayed against each other, that *theirs* would be the triumph. Tremendous error! Mistake almost fatal! The battle was fought. Slavery emerged from it unhurt—her hands made gory—her bloody plume still floating in the air—exultingly brandishing her dripping sword over her prostrate and vanquished enemy. She had won all for which she fought. Her victory was complete—  
THE SANCTION OF THE NATION WAS GIVEN TO SLAVERY.

“Immediately after this achievement, the slaveholding interest was still more strongly fortified by the acquisition of Florida, and the establishment of slavery there, as it had already been in the territory of Louisiana. The Missouri triumph, however, seems to have extinguished every thing like a systematic or spirited opposition, on the part of the free States, to the pretensions of the slaveholding South.

“Arkansas was admitted but the other day, with nothing that deserves to be called an effort to prevent it—although her Constitution attempts to *perpetuate* slavery, by forbidding the master to emancipate his bondmen without the consent of the Legislature, and the Legislature without the consent of the master. Emboldened, but not satisfied, with their success in every political contest with the people of the free States, the slaveholders are beginning now to throw off their disguise—to brand their former notions about the ‘*evil, political and moral*’ of slavery, as ‘*folly and delusion*,’—and as if to ‘*make assurance doubly sure*,’ and defend themselves forever, by territorial power, against the progress of free principles and the renovation of the Constitution, they now demand openly—scorning to conceal that their object is, to *advance and establish their political power in the country*,—that Texas, a foreign State, five or six times as large as all New England, with a Constitution dyed as deep in slavery as that of Arkansas, shall be added to the Union.

“The abolitionists feel a deep regard for the integrity of the union of the government *on the principles of the Constitution*. Therefore it is, that they look with earnest concern on the attempt now making by the South, to do, what, in the views of multitudes of our citizens, would amount to good cause for the separation of the free from the slave States. Their concern is not mingled with any feelings of



despair. The alarm they sounded on the 'annexation' question has penetrated the free States; it will, in all probability, be favorably responded to by every one of them; thus giving encouragement to our faith, that the admission of Texas will be successfully resisted; that this additional stain will not be impressed on our national escutcheon, nor this additional peril brought on the South.

"This, the present condition of the country, induced by a long train of usurpations on the part of the South, and by unworthy concessions to it by the North, may justly be regarded as one of the events of the last few years affecting in some degree the measures of the abolitionists. It has certainly done so. And whilst it is not to be denied that many abolitionists feel painful apprehensions for the result, it has only roused them up to make more strenuous efforts for the preservation of the country.

"It may be replied—if the abolitionists are such firm friends of the Union, why do they persist in what must end in its rupture and dissolution? The abolitionists, let it be repeated, *are* friends of *the* Union that was intended by the Constitution; but not of a Union from which is eviscerated, to be trodden under foot, the right to SPEAK—to PRINT—to PETITION—the rights of CONSCIENCE; not of a Union whose ligaments are whips, where the interest of the oppressor is the *great* interest—the right to oppress the *paramount* right. It is against this distortion of the glorious Union our fathers left us—into one bound with despotic bands—that the abolitionists are contending. In the political aspect of the question, they have nothing to ask, except what the Constitution authorizes; no change to desire, but that the Constitution may be restored to its pristine republican purity.

"But they have well considered the 'dissolution of the Union.' There is no just ground for apprehending that such a measure will ever be resorted to by the *South*. It is by no means intended by this, to affirm that the South, like a spoiled child, for the first time denied some favorite object, may not fall into sudden frenzy, and do herself some great harm. But knowing, as I do, the intelligence and forecast of the leading men of the South—and believing that they will, if ever such a crisis should come, be judiciously influenced by the *existing* state of the case, and by the *consequences* that would inevitably flow from an act of dissolution—they would not, I am sure, deem it desirable or politic. They would be brought, in their calmer moments, to coincide with one who has facetiously, but not the less truly remarked,



that it would be as indiscreet in the slave South to separate from the free North, as for the poor to separate from the parish that supported them. In support of this opinion, I would say :

“ First—A dissolution of the Union by the South would, in no manner, secure to her the object she has in view. The *leaders* at the South, both in the church and in the State, must, by this time, be too well informed as to the nature of the anti-slavery movement, and the character of those engaged in it, to entertain fears that violence of any kind will be resorted to, directly or indirectly. The whole complaint of the South is neither more nor less than this—THE NORTH TALKS ABOUT SLAVERY. Now, of all the means or appliances that could be devised, to give greater life and publicity to the discussion of slavery, none could be half so effectual as the dissolution of the Union *because of the discussion*. It would astonish the civilized world—they would inquire into the cause of such a remarkable event in its history : the result would be not only enlarged *discussion* of the whole subject, but it would bring such a measure of contempt on the guilty movers of the deed, that even with all the advantages of ‘ their education, their polish, their munificence, their high honor, their undaunted spirit,’ so eloquently set forth by the Hon. Mr. Hammond, they would find it hard to withstand its influence. It is difficult for men in a *good* cause, to maintain their steadfastness in opposition to an extensively corrupt public sentiment ; in a *bad* one, against public sentiment purified and enlightened, next to impossible, if not quite so.

“ Another result would follow the dissolution : Now, the abolitionists find it difficult, by reason of the odium which the principal slaveholders and their friends have succeeded in attaching to their *name*, to introduce a knowledge of their principles and measures into the great mass of southern mind. There are multitudes at the South who would coöperate with us, if they could be informed of our aim. Now, we can not reach them ; then, it would be otherwise. The united power of the large slaveholders would not be able longer to keep them in ignorance. If the Union were dissolved, they *would* know the cause, and discuss it, and condemn it.

“ A second reason why the South will not dissolve the Union, is, that she would be exposed to the visitation of *real* incendiaries, exciting her slaves to revolt. Now, it would cover any one with infamy, who would stir them up to vindicate their rights by the massacre of their masters. Dissolve

the Union, and the candidates for 'GLORY' would find in the plains of Carolina and Louisiana as inviting a theatre for their enterprise, as their prototypes, the Houstons, the Van Rensselaers, and the Sutherlands did, in the prairies of Texas, or the forests of Canada.

A third reason why the South will not dissolve is, that the slaves would leave their masters, and take refuge in the free States. The South would not be able to establish a *cordon* along her wide frontier sufficiently strong to prevent it. Then, the slaves would not be reclaimed, as they now are, under the Constitution. Some may say, the free States would not permit them to come in and dwell among them. Believe it not. The fact of separation on the ground supposed, would abolitionize the whole North. Besides this, in an economical point of view, the *demand for labor* in the western States would make their presence welcome. At all events, a passage through the northern States to Canada would not be denied them.

"A fourth reason why the South will not dissolve is, that a large number of her most steady and effective population would emigrate to the free States. In the slave-selling States especially, there has always been a class who have consented to remain there with their families, only in the hope that slavery would, in some way or other, be terminated. I do not say they are abolitionists, for many of them are slaveholders. It may be, too, that such would expect compensation for their slaves, should they be emancipated, and also that they should be sent out of the country. The particular mode of emancipation, however crude it may be, that has occupied their minds, has nothing to do with the point before us. *They look for emancipation; in this hope they have remained, and now remain where they are.* Take away this hope, by making slavery the *distinctive bond of union* of a new government, and you drive them to the North. These persons are not among the rich, the voluptuous, the effeminate, nor are they the despised, the indigent, the thriftless—they are men of moderate property, of intelligence, of conscience—in every way the 'bone and sinew' of the South.

"A fifth reason why the South will not dissolve, is her *weakness*. It is a remarkable fact, that in modern times, and in the Christian world, all slaveholding countries have been united with countries that are free. Thus, the West Indian and Mexican and South American slaveholding colonies were united to England, France, Spain, Portugal, and other

States of Europe. If England (before her emancipation act) and the others had at any time withdrawn the protection of their power from their colonies, slavery would have been extinguished almost simultaneously with the knowledge of the fact. In the West Indies there could have been no doubt of this, from the disparity in numbers between the whites and the slaves, from the multiplied attempts made from time to time by the latter to vindicate their rights by insurrection, and from the fact, that all their insurrections had to be suppressed by the *force* of the mother country. As soon as Mexico and the South American colonies dissolved their connection with Spain, slavery was abolished in every one of them. This may, I know, be attributed to the necessity imposed on these States, by the wars in which they engaged to establish their independence. However this may be—the fact still remains. The free States of this Union are to the slave, so far as the maintenance of slavery is concerned, substantially, in the relation of the European States to their slaveholding colonies. Slavery, in all probability, could not be maintained by the South disjoined from the North, *a single year*. So far from there existing any reason for making the South an exception, in this particular, to other slave countries, there are circumstances in her condition that seem to make her dependence more complete. Two of them are, the superior intelligence of her slaves on the subject of human rights, and the geographical connection of the slave region in the United States. In the West Indies, in Mexico and South America the great body of slaves were far below the slaves of this country in their intellectual and moral condition—and (in the former) their power to act in concert was weakened by the insular fragments into which they were divided.

“ Again, the depopulation of the South of large numbers of its white inhabitants, from the cause mentioned under the fourth head, would, it is apprehended, bring the two classes to something like a numerical equality. Now, consider the present state of the moral sentiment of the Christianized and commercial world in relation to slavery; add to it the impulse that this sentiment acknowledged by the South already to be wholly opposed to her, would naturally acquire by an act of separation on her part, with a single view to the perpetuation of slavery; bring this sentiment in all its accumulation and intensity to act upon a nation where one half are enslavers, the other the enslaved—and what must be the effect? From the nature of mind; from the laws of



moral influence, (which are as sure in their operation, if not so well understood, as the law of physical influence,) the party 'whose conscience with injustice is oppressed,' must become dispirited, weakened in courage, and in the end unnerved and contemptible. On the other hand, the sympathy that would be felt for the oppressed—the comfort they would receive—the encouragement that would be given them to assert their rights, would make it an impossibility to keep them in slavish peace and submission.

"This state of things would be greatly aggravated by the peculiarly morbid sensitiveness of the South to every thing that is supposed to touch her *character*. Her highest distinction would then become her most troublesome one. How, for instance, could her chivalrous sons bear to be taunted, wherever they went, on business or for pleasure out of their own limits, with the cry, 'The knights of the lash!' 'Go home and pay your laborers!' 'Cease from the scourging of husbands and wives in each other's presence—from attending the shambles, to sell or buy as slaves those whom God has made of the same blood as yourselves—your brethren—your sisters! Cease, high-minded sons of the ANCIENT DOMINION, from estimating your revenue by the number of children you rear, to sell in the flesh market!' 'Go home and pay your laborers!' 'Go home and pay your laborers!' This would be a trial to which 'southern chivalry' could not patiently submit. Their 'high honor,' their 'undaunted spirit' would impel them to the field—only to prove that the 'last resort' requires something more substantial than mere 'honor' and 'spirit' to maintain it. Suppose there should be a disagreement—as in all likelihood there soon would, leading to war between the North and the South? The North would scarcely have occasion to march a squadron to the field. She would have an army that could be raised up by the million, at the fireside of her enemy. It has been said, that during the late war with England, it was proposed to her cabinet, by some enterprising officer, to land five thousand men on the coast of South Carolina and proclaim liberty to the slaves. The success of the scheme was well thought of. But then the example! England herself held nearly a million of slaves at no greater distance from the scene of action than the West Indies. Now, a restraint of this kind on such a scheme does not exist.

"It seems plain beyond the power of argument to make it plainer, that a slaveholding nation—one under the circum-



stances in which the South separated from the North would be placed—must be at the mercy of every free people ; having neither power to vindicate a right nor avenge a wrong.

“A sixth reason why the South will not dissolve the Union, would be found in the difficulty of bringing about an *actual* separation. Preparatory to such a movement, it would seem indispensable, that *Union* among the seceding States themselves should be secured. A General Convention would be necessary to adjust its terms. This would, of course, be preceded by particular conventions in the several States. To this procedure the same objection applies, that has been made, for the last two or three years, to holding an anti-abolition convention in the South. It would give to the question such notoriety, that the object of holding the convention could not be concealed from the slaves. The more sagacious in the South have been opposed to a convention ; nor have they been influenced solely by the consideration just mentioned—which, in my view, is but of little moment—but by the apprehension, that the diversity of sentiment which exists among the slave States, themselves, in relation to their *system*, would be disclosed to the country ; and that the slaveholding interest would be found deficient in that harmony which, from its perfectness heretofore, has made the slaveholders so successful in their action on the North.

“The slaveholding region may be divided into the *farming* and the *planting*—or the *slave-selling* and *slave-buying* districts. Maryland, Virginia, Kentucky, Missouri and East Tennessee constitute the first. West Tennessee is somewhat equivocal. All the states south of Tennessee belong to the *slave-buying* district. The first, with but few exceptions, have from the earliest times, felt slavery a reproach to their good name—a drawback on their advancement at some period to be cast off. Had this sentiment, been at all encouraged by the action of the General Government, in accordance with the views of the convention that formed the Constitution, it would in all probability, by this time, have brought slavery in Maryland and Virginia to an end. Notwithstanding the easy admission of slave States into the Union, and the yielding of the free States whenever they were brought in collision with the South have had a strong tendency to persuade the farming slave States to continue their system, yet the sentiment in favor of emancipation in some form, still exists among them. Proof, encouraging proof of this, is found in the present attitude of Kentucky. Her Legislature has just passed a law, proposing to the

people, to hold a convention to alter the Constitution. In the discussion of the bill, slavery as connected with some form of emancipation, seems to have constituted the most important element. The public journals too, that are opposed to touching the subject at all, declare that the main object for recommending a convention was, to act on slavery in some way.

“Now, it would be in vain for the planting South to expect, that Kentucky or any other of the *farming* slave States would unite with her, in making slavery the *perpetual bond* of a new political organization. If they feel the inconveniences of slavery *in their present condition*, they could not be expected to enter on another, where these inconveniences would be inconceivably multiplied and aggravated, and, by the very terms of their new contract, *perpetuated*.

“This letter is already so protracted, that I can not stop here to develop more at large this part of the subject. To one acquainted with the state of public sentiment, in what I have called, the *farming* district, it needs no further development. There is not one of these States embraced in it, that would not, when brought to the test, prefer the privileges of the Union to the privilege of perpetual slaveholding. And if there should turn out to be a single *desertion* in this matter, the whole project of secession must come to nought.

“But laying aside all the obstacles to union among the seceding States, how is it possible to take the first step to *actual* separation! The separation, at the worst, can only be *political*. There will be no chasm—no rent made in the earth between the two sections. The natural and ideal boundaries will remain unaltered. Mason and Dixon’s line will not become a wall of adamant that can neither be undermined nor surmounted. The Ohio river will not be converted into flame, or into another Styx, denying a passage to every living thing.

“Besides this stability of natural things, the multiform interests of the two sections would, in the main, continue as they are. The complicate ties of commerce could not be suddenly unloosed. The bread-stuffs, the beef, the pork, the turkies, the chickens, the woollen and cotton fabrics, the hats, the shoes, the stocks, the ‘*horn flints and bark nutmegs*,’ the machinery, the sugar-kettles, the cotton-gins, the axes, the hoes, the drawing-chains of the North, would be as much needed by the South, the day after the separation as the day before. The newspapers of the North—its magazines, its quarterlies, its monthlies, would be more sought

after by the readers of the South than they now are; and the Southern journals would become doubly interesting to us. There would be the same lust for our northern summers and your southern winters, with all their health-giving influences; and last, though not least, the same desire of marrying and of being given in marriage that now exists between the North and South. Really it is difficult to say *where* this long threatened separation is to *begin*; and if the place of beginning could be found, it would seem like a poor exchange for the South, to give up all these pleasant and profitable relations and connections for the privilege of enslaving an equal number of their fellow creatures.

“Thus much for the menace, that the ‘UNION WILL BE DISSOLVED’ unless the discussion of the slavery question be stopped.

“But you may reply, ‘Do you think the South is not in earnest in her threat of dissolving the Union?’ I rejoin, by no means;—yet she pursues a perfectly reasonable course (leaving out of view the justice or morality of it)—just such a course as I should expect she would pursue, emboldened as she must be by her multiplied triumphs over the North by the use of the same weapon. ‘We’ll dissolve the Union!’ was the cry, ‘unless Missouri be admitted!’ The North were frightened, and Missouri was admitted with SLAVERY engraved on her forehead. ‘We’ll dissolve the Union! unless the Indians be driven out of the South!’ The North forgot her treaties, parted with humanity, and it is done—the defenseless Indians are forced to ‘consent’ to be driven out, or they are left, undefended, to the mercies of southern land-jobbers and gold-hunters. ‘We’ll dissolve the Union! if the tariff’ [established at her own suggestion] ‘be not repealed or modified so that our slave labor may compete with free labor.’ The Tariff is accordingly modified to suit the South. ‘We’ll dissolve the Union! unless the freedom of speech and the Press be put down in the North!’—With the promptness of commission-merchants, the alternative is adopted. Public assemblies met for deliberation are assailed and broken up at the North; her citizens are stoned and beaten and dragged through the streets of her cities; her presses are attacked by mobs, instigated and led on by men of influence and character: whilst those concerned in conducting them are compelled to fly from their homes, pursued as if they were noxious wild beasts; or, if they remain to defend, they are sacrificed to appease the southern divinity. ‘We’ll dissolve the Union’ if slavery be abolished in the



District of Columbia! The North, frightened from her propriety, declares that slavery ought not to be abolished there now.—‘We’ll dissolve the Union!’ if you read petitions from your constituents for its abolition, or for stopping the slave trade at the Capital, or between States. FIFTY NORTHERN REPRESENTATIVES respond to the cry ‘down, then, with the RIGHT OF PETITION!!’ All these assaults have succeeded because the North has been frightened by the war-cry, ‘WE’LL DISSOLVE THE UNION!’

“After achieving so much by a process so simple, why should not the South persist in it when striving for further conquests? No other course ought to be expected from her, till this has failed. And it is not at all improbable, that she will persist, till she almost persuades herself that she is serious in her menace to dissolve the Union. She may in her eagerness, even approach so near the verge of dissolution, that the earth may give way under her feet and she be dashed in ruins in the gulf below.

“Nothing will more surely arrest her fury, than the firm array of the North, setting up anew the almost forgotten principles of our fathers, and saying to the ‘dark spirit of slavery,’—‘thus far shalt thou go, and no farther,’ This is the best—the only—means of saving the South from the fruits of her own folly—folly that has been so long, and so strangely encouraged by the North, that it has grown into intolerable arrogance—down right presumption.”

Mr. Birney was for about three years a Corresponding Secretary of the American Anti-Slavery Society. In this sphere, his opportunities for exerting himself in the cause of Freedom were multiplied. He had access to great numbers of his fellow citizens, upon whom he was enabled to urge the claims of the enslaved. The influence he exerted was as benign as it was powerful. His intelligence, truthfulness and candor—his magnanimity and fidelity—all who had the privilege of an acquaintance with him, were not a little struck with. They were admitted to be note-worthy traits of his character. He was generally listened to with respectful attention. If his doctrines were not subscribed to, his character was admired. We well remember that an old lawyer from New England, after a discussion with him on points on which they were at variance, exclaimed, He is the most candid man I ever saw! On those who were often in his presence, and enjoyed his confidence, his words and deeds made the impression of great wisdom. They looked up to him for counsel. Whereever he applied his hand, they expected well advised plans and valuable results.



About this time it was, that Mr. Birney's father closed his earthly career. The father and the son, an only son, seem to have regarded each other with a true and tender love.—The great enterprize, to which the latter was devoted and which could not be endured in Kentucky, had for a long time withdrawn them from each other's presence. Just before his father's death, Mr. Birney visited him, and was received by him as well as by other friends, with all cordiality. He was intent on making such arrangements as would bring his son into the bosom of his old age, where he might feel the soothing and sustaining influence of his many virtues. But all such designs, however warmly cherished, death defeated. In the division of his father's estate, his slaves, twenty-one in number, were at Mr. Birney's request, all set off to him; and set off to him, that to their benefit, he might apply the principles by which he was controlled. Accordingly, he at once restored them the freedom of which they had been robbed. The deed, through which their emancipation was effected—a substantial and ever-enduring monument of his philanthropy—a decisive and emphatic proof of his wisdom and integrity—can not be read without the most grateful emotions, and the most healthful impressions. Here it is:—

“KNOW ALL MEN BY THESE PRESENTS,

*That I, James G. Birney, late of Kentucky, but now having my residence in the city of New York, believing that slaveholding is inconsistent with natural justice, with the precepts and spirit of the Christian religion, and with the declaration of American Independence, and wishing to testify in favor of them all, do hereby emancipate, and forever set free, the following named slaves, which have come into my possession, as one of the heirs of my father, the late JAMES BIRNEY, of Jefferson county, Kentucky, they being all the slaves held by said JAMES BIRNEY, deceased, at the time of his death.”*

Then follow their names and descriptions, and the deed concludes: “In testimony of the above I have, hereunto set my name and affixed my seal, this third day of September, in the year of our Lord one thousand eight hundred and thirty-nine.

JAMES G. BIRNEY.” (Seal.)

He was in 1840 a member of the “World's Convention,” which met in London. Here abolitionists were drawn together from different parts of Christendom, to interchange mutual greetings, relate facts, express their convictions, offer counsel, devise plans, afford mutual encouragement,

and in a thousand ways assist each other in the work of Emancipation. In this assembly, Mr. Birney occupied a prominent place, and rendered much assistance. After the Convention had adjourned, he spent several months in visiting different parts of England, where on various occasions he labored to promote the cause in which his heart was so thoroughly enlisted. The estimation in which he was held in England may be inferred from the following testimony of the Committee of the British and Foreign Anti-Slavery Society: "That this committee are deeply sensible of the services rendered to the anti-slavery cause by their esteemed friend and coadjutor, James Gillespie Birney, Esq., whilst in this country, in a course of laborious efforts, in which his accurate and extensive information, his wise and judicious counsels, and his power of calm and convincing statement, have become eminently conspicuous."—During his residence in England, Mr. Birney prepared and published his "*American Churches the Bulwarks of American Slavery*;" a paper, replete with facts as instructive as they are afflictive, which has gone through several editions in this country. In this work, he declares that it was his "single view to make the British Christian public acquainted with the real state of the case—in order that it may in the most intelligent and effective manner exert the influence it possesses with the American churches, to persuade them to purify themselves from a sin that has greatly debased them, and that threatens in the end wholly to destroy them." The pamphlet consists of facts, well selected and judiciously applied, and though of great value, is not easy of analysis. The bearing of the subject on human rights and the general welfare is altogether vital; it must not be disposed of with a passing notice merely.

The extent to which the American churches are directly involved in slavery, may be inferred from statements like the following. A Mississippi divine, of the Presbyterian connection, Rev. James Smylie, A. M., does not hesitate to publish the following declaration: "If slavery be a sin, and advertising and apprehending slaves, with a view to restore them to their masters is a direct violation of the divine law, and if *the buying, selling, or holding a slave, FOR THE SAKE OF GAIN*, is a heinous sin and scandal, then, verily, **THREE FOURTHS OF ALL THE EPISCOPALIANS, METHODISTS, BAPTISTS, and PRESBYTERIANS, in ELEVEN STATES OF THE UNION**, are of the devil. They 'hold,' if they do not buy and sell slaves, and, *with few exceptions*, they hesitate not to 'apprehend and

restore' runaway slaves, when in their power." "In some of the older slave States, as Virginia and South Carolina, churches, in their *corporate* character, hold slaves, who are generally hired out for the support of the minister. The following is taken from the Charleston Courier, of Feb. 12, 1835.

"'FIELD NEGROES, *by Thomas Gadsden.*

"'On Tuesday, the 17th instant, will be sold, at the north of the Exchange, at 10 o'clock, a prime gang of ten *negroes*, accustomed to the culture of cotton and provisions, belonging to the INDEPENDENT CHURCH, in *Christ's Church Parish*. .... Feb. 6.'"

Of the condition of slaves, as well the slaves of those who do as of those who do not profess to be Christians, the following paragraph furnishes a painful illustration: "In 1834, the Synod of Kentucky appointed a committee of twelve to report on the condition, &c., of the slaves. This passage occurs in the report:—

"Brutal stripes and all the various kinds of personal indignities, are not the only species of cruelty which slavery licenses. The law does not recognize the family relations of the slave; and extends to him no protection in the enjoyments of domestic endearment. The members of a slave family may be forcibly separated, so that they shall never more meet until the final judgment. And cupidity often induces the masters to practice what the law allows. Brothers and sisters, parents and children, husbands and wives are torn asunder, and permitted to see each other no more. *These acts are daily occurring in the midst of us.* The shrieks and the agony, often witnessed on such occasions, proclaim with a trumpet-tongue, the iniquity and cruelty of our system. The cries of these sufferers go up to the ears of the Lord of Sabaoth. There is not a village or road that does not behold the sad procession of manacled outcasts, whose chains and mournful countenances tell that they are exiled by force from all that their hearts hold dear. Our church, years ago, raised its voice of solemn warning against this flagrant violation of every principle of mercy, justice, and humanity. Yet we blush to announce to you and to the world, that this warning has been often disregarded, even by those who hold to our communion. *Cases have occurred in our own denomination, where professors of the religion of mercy, have torn the mother from her children, and sent her into a merciless and returnless exile.* Yet acts of discipline have rarely [*never*] followed such conduct."



The system, out of which such evils naturally grow—to which they necessarily belong, the tallest ecclesiastics among us, both North and South, pronounce consistent with the genius of Christianity. Bishop Hedding finds its foundation in the Golden Rule! “The right to hold a slave is founded on this rule, ‘Therefore, all things whatsoever ye would that men should do unto you, do ye even so to them; for this is the law and the prophets.’”

Rev. Prof. Simms, of Randolph Macon College, makes “Extracts from HOLY WRIT,” which “UNEQUIVOCALLY ASSERT THE RIGHT OF PROPERTY IN SLAVES, together with the usual incidents of that right; such as the power of acquisition and disposition in various ways, according to municipal regulations. The right to buy and sell, and to transmit to children by way of inheritance, is clearly stated. The only restriction on the subject, is in reference to the *market*, in which slaves or bondsmen were to be purchased.

“Upon the whole, then, whether we consult the Jewish polity, instituted by God himself; or the uniform opinion and practice of mankind in all ages of the world; or the injunctions of the New Testament and the Moral Law; we are brought to the conclusion, that slavery is not immoral.

“Having established the point, that the first African slaves were legally brought into bondage, the right to detain their children in bondage, follows as an indispensable consequence.

“Thus we see, that the slavery which exists in America, was *founded in right*.”

And those ecclesiastics, who profess to be “as much opposed to slavery as any body,” contrive cunningly to dodge the point, when it is urged on their attention. When with speechless eloquence, the slave entreats them to come to his assistance, all crushed and bleeding as he is;—to come to his assistance against members of their own communion, who are remorselessly throttling him, these divines, in a fit of excessive modesty, exclaim, We have no jurisdiction in such cases. We can not say a word in behalf of crushed Humanity, though talking is their vocation! The sword belongs to Cæsar. Just as if the friends of Freedom had “petitioned” them to wield some such carnal weapon! Mr. Birney sets this matter in a clear light in the following paragraph:—“When ecclesiastical councils excuse themselves from acting for the removal of slavery from their respective communions by saying, they can not *legislate* for the abolition of slavery; that slavery is a *civil* or *political* institution—that it ‘belongs to Cæsar,’ and not to the church to put an end to it, they



shun the point at issue. To the church member who is a debauchee, a drunkard, a seducer, a murderer, they find no difficulty in saying, 'we can not indeed proceed against your person, or your property—*this* belongs to Cæsar—to the *tribunals* of the country—to the *legislature*;—but we can suspend or wholly cut you off from the communion of the church, with a view to your repentance and its purification.' If a white member should by force or intimidation, day after day, deprive another white member of his property, the authorities of the churches would expel him from their body, should he refuse to make restitution or reparation, although it could not be *enforced* except through the tribunals over which they have no control. There is then, nothing to prevent these authorities from saying to the slaveholder—'cease being a slaveholder and remain in the church, or continue a slaveholder and go out of it; You have your choice.' "

But the modesty of these ecclesiastics vanishes the instant an abolitionist appears. "Tooth and nail" they assail him, as if they would rend him in pieces. Take the following illustration. "The Rev. William S. Plumer, D. D., of Richmond,"—a "leader of the Old School party"—"was absent from Richmond at the time the clergy in that city purged themselves in a body, from the charge of being favorably disposed to abolition. On his return, he lost no time in communicating to the 'Chairman of the Committee of Correspondence,' his agreement with his clerical brethren. The passages quoted occur in his letter to the chairman.

" "I have carefully watched this matter from its earliest existence, and every thing I have seen or heard of its character, both from its patrons and its enemies, has confirmed me, beyond repentance, in the belief, that, let the character of abolitionists be what it may in the sight of the Judge of all the earth, this is the most meddlesome, impudent, reckless, fierce, and wicked excitement I ever saw.

" "If abolitionists will set the country in a blaze, it is but fair that they should receive the first warming at the fire.

" "Let it be proclaimed throughout the nation, that every movement made by the fanatics (so far as it has any effect in the South) does but rivet every fetter of the bondsman—diminish the probability of any thing being successfully undertaken for making him either fit for freedom, or likely to obtain it. We have the authority of Montesquieu, Burke, and Coleridge, three eminent masters of the science of human nature, that of all men slaveholders are the most jealous

of their liberties. One of Pennsylvania's most gifted sons has lately pronounced the South, the *cradle of liberty*.

“ ‘Lastly—Abolitionists are like infidels, wholly undicted to martyrdom for opinion's sake. Let them understand that *they will be caught* [Lynched] if they come among us, and they will take good heed to keep out of our way. There is not one man among them who has any more idea of shedding his blood in this cause, than he has of making war on the Grand Turk.’ ”

We know not however where to look for so fine a specimen of the spirit we are trying to illustrate, as is preserved in the following address. Such a mixture of canting hypocrisy, with brazen impudence and blood-thirsty ferocity! Rev. Robert N. Anderson, of Virginia, thus addresses “the Sessions of the Presbyterian Congregations within the bounds of the West Hanover Presbytery:—

“ At the approaching stated meeting of our Presbytery, I design to offer a preamble and string of resolutions on the subject of the use of wine in the Lord's Supper; and also a preamble and string of resolutions on the subject of the treasonable and abominably wicked interference of the northern and eastern fanatics, with our political and civil rights, our property and our domestic concerns. You are aware that our clergy, whether with or without reason, are more suspected by the public than the clergy of other denominations. Now, *dear Christian brethren*, I humbly express it as my earnest wish, that you *quit yourselves like men*. If there be any stray goat of a minister among you, tainted with the blood-hound principles of abolitionism, let him be ferreted out, silenced, excommunicated, and left to the *public to dispose of him in other respects*.

“ Your affectionate brother in the Lord,

“ ROBERT N. ANDERSON.”

Mr. Birney is far enough from thinking lightly of the institutions and arrangements, through which Christianity asserts its authority and extends its influence. He regards them with a hearty love—they have his countenance and support. In the exertions he feels impelled as a philanthropist to make, he relies upon Christianity for encouragement and success. He has no hope, that his country will forsake the sins, renounce the follies, and escape the miseries, he so deeply deplores, through any other influence than the power of the gospel. Upon this, therefore, his strongest and most cherished hopes are fastened. But it is the substance and not the shadow, on which he so affectionately and confidently

relies. The living energy of Truth, embodied and applied in Christian institutions—expressed in forms adapted to the various relations of life;—this, *this* it is, that amidst his labors and trials, he reverently invokes,—upon this, *this alone* he gratefully depends. When, therefore he sees, as with his open eye he can not but see, a lifeless Sham usurping the name and the place of a live-giving Reality, his indignation is aroused, he is filled with painful apprehensions. He resolutely strips the baptized fiction of its disguises, that his countrymen may see how ugly and how impotent it is, and betake themselves at once and earnestly to the power, from which alone they are entitled to expect redemption. Hence the pages from which we have been making a few extracts.

On his return recently from England, President Kellogg, of Illinois, briefly described the impression, which was left there by Mr. Birney's visit. Mr. Kellogg's words afford a gratification, to which our readers are entitled.

“It was truly refreshing to me while I was in Great Britain, amid the many complaints against my countrymen to which I was obliged to listen, to hear our excellent friend, James G. Birney so frequently spoken of, and always in terms of unqualified approbation and respect. The mention of his name in those circles in which he was known, and they were both numerous and extensive, invariably imparted pleasure, and many were the inquiries which were made in respect to his welfare. I could not but observe that intelligent men both in England and Scotland very highly appreciated him for that trait in his character, which I have always from my first acquaintance with Mr. Birney, regarded as exhibited by him in a remarkable degree. You will doubtless understand me as referring to his candor. He never deals in exaggeration or sophistry. In his public addresses and discussions, which were numerous, in that country, as well as in his private conversations, by the sobriety of his own views, by the fairness and fullness with which he stated the positions and arguments of his opponents, and by the manliness with which he met and refuted them, he ever impressed his auditors with a conviction of the soundness of his sentiments and of the perfect reliance which might be placed upon his statements. The visits of such men to foreign lands, are an honor to our country, and leave behind them a savor which is grateful to an American citizen.”

Within the sphere of politics, the abolitionists had belonged to no one party, exclusively. In their views and measures and cherished preferences, they differed widely from



each other on many points in political economy and the science of government. But the regard, which they cherished, one and all, for the fundamental principles, to which our government is professedly adjusted, bound them together in one brotherhood. The principles, which united them, they regarded as every way superior in significance and power, to the opinions which divided them. In promoting the sublime objects, to which as the friends of Freedom they were all devoted, they felt, that they had the strongest claims on each other's sympathy and assistance ;—claims, which must be yielded to, whatever might become of the comparatively petty things, which characterized the political parties, with which they had respectively acted. They resolved, therefore, to give their suffrages only to such candidates for office, as would pledge themselves to subserve at any position, to which they might be elevated, the welfare of the oppressed—as would exert themselves to remove from the necks of our unhappy countrymen the yoke of slavery. And where this pledge was given by one candidate and withheld by others, all seeking the same office, he was looked upon as entitled to the support of the abolitionists around him, though belonging to a party to which they had been opposed. Hence arose the habit, maintained for some time by the abolitionists, of questioning the various candidates for office.

In occupying such ground, it is obvious, the abolitionists became a distinct party in politics. Without overlooking other subjects, to this also they were now intent on making an application of the principles, which lie at the basis of the anti-slavery enterprise. They no longer belonged to the parties, with which they had been connected. They had principles—they had a policy of their own—strongly characteristic—clearly distinguishing. They really, though somewhat indirectly, set up the candidates, whom, as a party they might be expected to support. These were to be selected from other parties ; but selected with a marked and avowed reference to the principles, aims and measures, which characterized the abolitionists. They were then, and were admitted to be, a distinct political party.

Experiment and reflection, however, forced upon the abolitionists the painful conclusion, that they had adopted a mistaken and ill-advised policy. There was no want of answers to their questions. The music of fair promises was continually in their ears. This candidate and that ;—O yes, if he were once elected to the office, for which his ambition



gaped, he would be sure *to do all he could* for the slaves. The word *could*, however, it was presently found, must be interpreted in the light of his party obligations! The characteristic policy of his party, must at whatever hazard or expense be adhered to; if consistently with that, any thing could be done for the cause of Freedom, he was willing to attempt it. *And it clearly entered deeply into the policy of every party, from which candidates for office were to be selected, to propitiate the favor—to secure the support of slaveholders.* Thus the conditions, on which the abolitionists offered their suffrages *were not*—COULD NOT BE *complied with.* The moment any one in office acted on their principles, he abandoned the party, by which he was elevated and to which he had sworn fidelity. Could he officially exert himself for the abolition of slavery, without offending every slaveholder in his party, and bringing down upon himself and upon his fellows a storm of wrath? What could come of urging questions on men, thus crippled and embarrassed? What were their pledges good for? What could be expected of one—OR ANY ONE, who was identified with a party, which *as a party* was confessedly under the control of the dark spirit of slavery? Instructed by experience, and enlightened by reflection, the abolitionists could not have held on to the policy of questioning candidates without betraying gross stupidity or deep hypocrisy.

The embarrassments, in which the abolitionists were thus involved, were the occasion of frequent and earnest discussions. The question to be answered was; shall we so change our policy, as to choose our candidates for office, not from slavery-ridden parties, but from among ourselves. On these shall our votes instead of being scattered abroad be concentrated? Shall we insist upon it, that those, who are to have our suffrages, shall fairly represent us—shall be controlled by our principles, hold our aims, employ our measures? Great numbers of *professed* abolitionists were too closely wedded to their parties to abandon them, thus decisively and openly, in honor of any principle, however sacred;—of any object, whatever might be its magnitude. Others were crippled with various apprehensions. They feared, that the abolitionists were too few and feeble, to enter with any prospect of success on a design, so comprehensive in its import, and demanding such unwearied activity, such large resources, and powers so vigorous and varied. They feared, that such a change in its characteristic policy would introduce dissention into the ranks of Freedom, and thus:

reduce, and depress, and discourage. They feared, that ambition might kindle its fires in many a bosom, which had hitherto been free from its influence. Others again had lost their confidence in the institution of civil government, however it might be organized and maintained. They were disposed therefore rather to throw off the political responsibilities, they had hitherto sustained, than to add any thing to their weight and extent. Into this discussion the late MYRON HOLLEY entered with great earnestness. He brought his manly and well trained powers to bear upon it with marked effect. He was a wise and strong man; ready to obey the God's voice, which required him to let the light of his principles shine through his conduct, as clearly in politics as in any other sphere of responsibility. His was a logical mind, and his an eloquent tongue; he was able, therefore, to convince and persuade. He was thoroughly enlisted in the cause of Humanity, and therefore indefatigable in wielding his powers in so high a service. In a local convention in western New York, where his influence was deeply felt, James G. Birney was nominated as Freedom's candidate for President of the United States. In the spring of 1840, a general convention was held by the abolitionists in Albany, where the policy of independent nominations was fully determined on. Here, such men as Myron Holley, Elizur Wright, Jr., and Joshua Leavitt, were active and efficient in conducting their fellows to the conclusion, that a Liberty Party was the dictate of Wisdom—was imperiously demanded by the voice of Freedom. Here, James G. Birney was nominated to fill the highest station in the Republic.

How Mr. Birney would be likely to regard such a movement, might have been inferred from such paragraphs as the following, which flowed from his pen a few months before. "Our political movement, heretofore, may be compared to the wake of a vessel at sea—never increasing in length, no matter how many thousands of miles she may sail. But the present movement shows that we have discovered our mistake—that there is enough of life and spirit among us to attempt its correction—that we are willing to act as well as talk—to overshadow, with this great question, minor ones that have for a long time distracted portions of our friends and alienated them from each other—and that instead of resting satisfied with still longer committing our sacred cause to the hands of its enemies, or of mere partizans who, almost uniformly thus far, have either baffled, or befooled, or betrayed us, we have confidence enough in it and in our-

selves to take the *political*, as we have the other parts of it, into our own keeping and under our own management. I look on the independent party movement as proof, not only of the greater force and energy of the anti-slavery cause, but of its greater expansion; and I am not more surprised at it, than I would be, at seeing the young of a noble bird, grown too large for the nest, and feeling its strength and courage equal to the attempt, committing itself to the bosom of the air, and training its powers in the region of thunders and lightnings and storms."

In the month of May, just before he set sail for England, Mr. Birney signified his acceptance of the nomination, in a letter replete with wisdom, well worthy of the candidate for the office, for which he had been named. See how he disposes of the plea, so often urged and so widely effective, of "*other interests*," to justify the choice of unjust rulers—so unjust as impudently and remorselessly to sacrifice the dearest rights, and trample on the highest prerogatives of our common Humanity. "The '*other interests*' here meant are such as relate to the pecuniary, commercial, agricultural and manufacturing condition of the country. It is not denied, that these are important interests, well meriting the protection of the government. But they are not the *highest* concerns of a government. The security of life—of liberty—of civil and religious privileges—of the rights of conscience—of the right to use our own faculties for the promotion of our own happiness—of free locomotion,—all these, together with the defense of the barriers and outposts thrown around them by the laws, constitute the highest concerns of a government. These, for the last six years, we have seen invaded one after another—the administration aiding in the onset—till the *feeling of security* for any of them has well nigh expired. A censorship of the mail is usurped by the deputy postmasters throughout more than half the country, and approved by the administration under which it takes place. The pillage of the Post-Office is perpetrated in one of our principal cities, and its contents made a bonfire of in the public square;—no one is brought in question for the outrage. Free speech and debate on the most important subject that now agitates the country, is rendered impossible in our national legislature; the *right* of the people to petition Congress for a redress of grievances is formally abolished by their own servants! And shall we sit down and dispute about the currency, about the sub-treasury or no sub-treasury, a bank or no bank, while such



outrages on constitutional and essential *rights* are enacting before our eyes? Shall we imitate the two wiseacres who disputed about the hire of the house till they were driven out of doors by the flames which were consuming it?

“The truth is, the government of the country is in the hands of the slave power. This has been the case ever since the triumph of that power on the ‘Missouri question.’ Since that fatal event, its dominion has been asserted with greater boldness, and it has been yielded to by the free States with the requisite submission. The North, in relation to the South, is as a conquered province—conquered by a power whose intrinsic strength in every respect is comparatively contemptible, but whose weakness is made strength by *union*. With united councils and concentrated vigor it has acted, and continues to act on the confiding and divided North. It has claimed every thing—the North has yielded every thing. Yet does the slave power fear the superior energies of the North; for well does it know, that if the North by any sudden and imperious act of domination should be aroused to *rebel*, the reign of the conquerors must be short. But they practice, and successfully too, the political tactics of the tyrant Lysander; where the lion’s skin is too short, they eke it out with the fox’s tail. Does the North become restive, and show signs of insisting on occasionally supplying the country with the first officer of the government. The slave power does not flatly refuse to grant what is thus half *demand*ed. She only imposes the condition, that the candidate or candidates be such as she can *approve*—such as have given indubitable proof of their attachment to Southern institutions—such as are shameless enough, with the Declaration of Independence before their eyes, and a coflee of hand-cuffed slaves in view, to bow down to the dark spirit of slavery and swear eternal fidelity on its altars. Will she contend with the North at the hazard of losing her sway over it, for the empty honor of supplying a President from her own territory, as long as she can *choose her men* at the North? No: she has too much wisdom to engage in a game so foolish and unprofitable.”

In alluding to the sacrifice of “inherent and constitutional rights” by “the most pernicious administration, with which the Republic had been cursed,” Mr. Birney traces “the intolerable evil” to the pressure of a state necessity, which had chained the nation to the car of slavery. “It is not denied that Mr. Van Buren, in keeping faith with the slave power, has disregarded and trampled under foot the inherent and



constitutional rights of the people. Nor is it intended by any thing that has been said to plead for his re-election. Far from it. His administration has been decidedly the most pernicious with which the Republic has been cursed. But the fact that it has been so, only proves the greater ascendancy of the slave power, in the control of the government. A power whose chief interest (the slave system) is in direct antagonism to free institutions every where—whose Agriculture is desolation—whose Commerce is mainly confined to a crazy wagon and half fed team of oxen or mules as the means of carrying it on—whose manufacturing ‘Machinery,’ is limited to the bones and sinews of reluctant slaves—whose currency is individual notes always *to be* paid, (it may be at some broken bank,) and mortgages on men and women and children who may run away or die, and on land, which without them is of little value: such a power is certainly not the most competent to manage the affairs of a government based on the everlasting truth, that all men are created free and entitled to their liberty, and to whose prosperity no bounds could be assigned if the elements of it were but left free and unfettered.”

The folly of persisting in the effort to unite Freedom and slavery into a living, self-consistent unit, he thus pointedly exposes. “The conclusion of the whole matter is, that, as a people, we are trying an experiment as unphilosophical in theory, as it has been, and ever will be, found impossible in practice: to make a harmonious whole out of parts that are, in principle and essence, discordant. It is in vain to think of a sincere union between the North and the South, if the first remain true to her republican principles and habits, and the latter persist in her slaveholding despotism. They are incapable, from their natures, of being made *one*. They can no more be welded together into one body of uniform strength and consistency, than clay and brass. They may, it is true, be pressed together and made to cohere by extraneous appliances; and the line of contact may be daubed over and varnished and concealed: but the first shock will make them fall asunder and disclose the fact, that there never was any real incorporation of the substance. A huge oligarchy, as the South is, made up of a multitude of petty despotisms, acting on the principle that men are *not* created equal—that a favored *few* are born, ready booted and spurred, to leap into the saddles with which the backs of the *many* are furnished by nature—such a government, I say, when brought by circumstances into close juxtaposition

and incessant intercourse with republics acting on principles diametrically opposite, must soon be brought to modify, and eventually to relinquish its principles and practices—or, *vice versa*, the republics must undergo a similar change, and assimilate themselves to the practices of the despotisms. One or the other must, in the end, gain the entire ascendancy.”

Again. “The same system of legislation never can be successfully applied to two communities, or parts of a nation, differing as widely in principle and practice, as the North and the South. Legislation *intends* to act beneficially on the *labor* of a country. Where that labor is partly free and partly slave, the same legislation can not be made beneficial to both. The protective Tariff is an instance of this. The proposition for the Tariff came first from the South. The efficiency of slave labor—the only labor to which southern politicians were accustomed—was doubtless one of the data, by which its benefits were estimated. But when the impulse of the Tariff legislation was given—as it necessarily was—to the *whole* of the labor of the country, what was the consequence? Just this—that the *free labor* so far outstripped the *slave labor*, as utterly to dishearten those who had looked to the latter, and make them believe that the system which seemed so replete with benefits, *before it was tried*, was absolutely injurious to them: whereas it was but relatively so. The South then cried out for its repeal or modification. This was accorded to them of course. Such must be the issue of all legislation which gives a new impulse to the mass of labor, in a country where that labor is partly free and partly slave. Ill success in the competition produces discontent, and clamors arise on the part of the monopolists of slave labor for a repeal of the laws—although they may have accomplished all that was expected of them, so far as the free labor of the country was concerned.”

The secret of the derangement in our “monetary affairs” is thus laid bare. “Mr. Van Buren is greatly blamed for the low and deranged condition of the monetary affairs of the country, for the last three years. But this is to place the blame on one of the *consequences* and not on the *cause*. The blame has not been fixed at the right point; it ought to be, placed to his consenting, as a citizen of a republic, to become the instrument of the slave power. For what can a free, republican and commercial State look for, but confusion and ruin, when they entrust their affairs to a people without commerce, without manufactures, without arts, without industry; whose whole system of management is one of ex-

pense, waste, credit, and procrastination? Look at the Florida war for proof. Nearly \$40,000,000 has already been expended in this enterprise, the object of which, (*to break up a refuge for runaway slaves,*) is as useless to us as a nation, as the manner in which it has been conducted is disgraceful to our honor. How far the power, which impels the administration, respects commerce, may be seen in the case of Hayti. That Island the largest of the West India group except one, teeming with the most valuable products, and wanting what we can furnish, has heretofore yielded us a valuable trade, and is still ready to do so, provided our commercial intercourse can be conducted on terms of mutual benefit and dignity. Hayti now contains a rapidly increasing population of about 1,200,000, and is capable of easily sustaining four or five times that number.—All the commercial advantages which we might now enjoy, and the increase of which hereafter we might secure by the most ordinary civility, are about to be sacrificed to the slave power. The Haytians achieved their Independence as our forefathers did ours—by *rebellion*. They have, at sacrifices and self-denial almost incredible, maintained it; but they are black, and to treat a nation of blacks as *free*, would lead the slave of the South into some knowledge of his dignity as a man. Therefore it is that this valuable channel of commerce is about to be closed.”

In the ensuing election, it is not to be denied, that great numbers, who had been reckoned abolitionists, were borne away by the popular frenzy to the support of names, pledged to the support of slavery, and, of course, most unworthy of the suffrages of freemen. Why describe the expedients, which were employed to secure the election of General Harrison? What else could the recital awaken in any generous bosom than shame, sorrow, indignation? But amidst the wide-spread defections, by which the ranks of professed abolitionists were thinned, some seven thousand voters refused to “bow the knee to Baal.”

In the spring of 1841, the nomination of Mr. Birney was renewed.—During his residence at New York and before his visit to England, Mr. Birney was called to close the eyes of his wife. We have seen from the pen of one of her sons—a son, worthy of the name, he bears—a touching testimony to the excellence and beauty of her character. She was the mother of eleven children, six of whom remain to cherish as a sacred thing her memory. Her health was feeble for many years; but trusting in God, as she did, she carried



about with her a brave heart, which sustained her amidst her multiplied trials. For could the wife of James G. Birney, beset as he often was with perils, be a stranger to tribulation? "Her husband," so her son gratefully testifies, "ever found in her a helper in every noble work. And in all the experience of domestic life, he always addressed her in the language of respect mingled with affection." To this he adds; "among her last words to me when I parted with her for the last time was an admonition to stand by my father in the cause of the slave."—In the spring of 1841, Mr. Birney became connected with his present wife—a lady of great worth—a cherished member of the family of Fitzhugh. After visiting his native State, he took up his residence at Saginaw, his present home, in the State of Michigan.

Mr. Birney was nominated anew by the Convention, greatly distinguished for its numbers and dignity, held in the summer of 1843 at Buffalo. In reply to the official notice of this, which he received in a letter from Judge King, of Ohio, he had occasion to examine the claims of John Q. Adams to the confidence of the abolitionists. He disposes of these claims with his accustomed candor, courage and power. The course of Mr. Adams in relation to the "anti-slavery agitation in Congress," he thus characterizes. "His course, in my judgment, has been eccentric, whimsical, inconsistent; defended in part by weak and inconclusive, not to say frivolous arguments; and taken as a whole thus far, is unworthy of a statesman of large views and a right temper in a great national conjuncture." He then proceeds by an induction of particular facts to illustrate and confirm this general judgment. He shows clearly enough, that while Mr. Adams on various occasions had professed a deep and lively sympathy with the abolitionists, he had opposed their designs at every point where they were distinguished from other classes of their fellow-citizens. On grave occasions they had in violation of their own established rules put confidence in his *words* in the face and eyes of *deeds*, which flatly contradicted them! Those for whose especial benefit they were intended will not be likely soon to forget the lessons, which the following paragraphs were designed to inculcate.

"This departure from the rule in Mr. Adams' case, has been followed by the consequences that usually attend, either directly or indirectly, departures from rules that have been deliberately adjusted for the management of large affairs. The abolitionists, in electing Mr. Adams, made him *their*



own witness—hoping like an eager but an inexperienced litigant; that his testimony would be favorable to them, because he was heard to speak freely of the general bad character of their adversary. But the upshot of the matter is, that every thing that is *substantial* in his testimony is favorable to their adversary.

“To *them* he gives ‘words—words—words!’ The effect has been as it always is in such cases.

“Do the abolitionists assault slavery in Florida—in the District of Columbia?—*there* is Mr. Adams, the main reliance of their adversary, placed in his position of power by abolitionists—playing ‘fast and loose,’ at pleasure, between the contending parties—amusing the one with speeches and letters against slavery, all very interesting and eloquent to be sure, but *serving* the other day and night, defending the ‘Citadel’ of their abominations.

“Do the abolitionists labor so to correct public sentiment that Congress possessing unlimited discretionary power in the premises, shall be persuaded to refuse Florida admission into the Union as a slave State? Mr. Adams is unceasingly impressing on the public mind, that this would be a breach of the national faith.

“Do they toil to produce the general conviction that slavery can not long withstand the influence of a fast rising public sentiment against it? Mr. Adams, in his cold response to the warm greetings of the colored population of Cincinnati, assures us that ‘as long as Africa encourages slavery, it is impossible to put an end to it in America.’ And, as if to extinguish in the colored people all hope of an event in which they more than any other class of our population, are especially interested, adds:

“‘How this can be done I do not pretend to say. It is not the nature nor the right of our government to interfere with the right of any foreign country, not even the government of Africa.’

“The abolitionists insist on *immediate* emancipation as the most practicable and safest mode of emancipation for all parties. Mr. Adams despatches it as ‘a moral and physical impossibility.’

“They affirm at a convention, the largest and most deliberately called together of any they have yet held, that the law of God is the Supreme law; that whenever human laws, no matter with whatever solemnities enacted, come in conflict with it, or aim to set it aside, they carry with them no obligatory force; are void. Mr. Adams, on the heel of

that convention, and on the most public occasion he could make, affirms that 'the force of moral principle is and must be transgressed by the conventional rules of human society'—thus superseding the laws of the Creator by the enactments or usages of his creatures.

"For the logic by which Mr. Adams, after asseverating in almost every variety of form our language can supply, that no laws can confer or sanction *property in human beings*, has arrived at the conclusion, that this barbarian, brutal usurpation ought to be endured at the heart of the government until the wrong-doers voluntarily relinquish their hold on their victims; that Florida ought to be admitted into the Union, with a slaveholding constitution—as if an immunity to annihilate the inalienable rights of the weaker portion of society were an essential element in our republican forms of State government; that immediate emancipation in this country is a moral and physical impossibility—in view of the instances of its success on this continent, with which Mr. Adams must be familiar—that slavery must first be abolished among the Mahomedan and Pagan chiefs of Africa, before it can be possible to put an end to it in Christian America—for such logic, I say I can entertain but little respect.

"And believing as I do, that 'there is no wisdom, nor understanding, nor counsel against the Lord,' that no people can be permanently prosperous or happy who in heart or practice deny His right to reign on earth among men; and that all attempts to persuade them that they are but types of politico-infidel empiricism—believing this, I can entertain no higher respect for the ethics of Mr. Adams than I have expressed for his logic; but do wholly repudiate any and every code founded on the pernicious error that the commandments of God may innocently or advantageously be "transgressed by the conventional rules of human society."

"Mr. Adams owes much of his present popularity—may I not say, nearly all—to his connection with the anti-slavery agitation. Abolitionists have contributed more than any other class of persons, to swell the tide of his influence. That influence is now active in fortifying against them every practicable point at which they have attacked slavery in this country; and his *quasi* sympathy with them gives to it an independent and unusual force. There is no one who is doing so much—I assume not to say, it is so *intended*—to deaden the awakening sensibilities of our countrymen against the private iniquity and public disgrace of slavery, as Mr. Adams—so much to reconcile them to forbearance with a sys-

tem which that gentleman oftener and more vehemently than any other statesman among us, has branded as against justice—humanity—nature—the laws of God; and as ‘deadly disease,’ before which the Union will fall, if it fall not before the Union.”

Last winter, “a large meeting was held in Pittsburgh, to consider the subject of the annexation of Texas. A committee was appointed to correspond with *all* those citizens, whose names are before the public as candidates for the Presidency, and ask of them an explicit declaration of their views on the subject of annexation.” The reply of Mr. Birney is eminently characteristic. It is directly and wholly to the purpose. The convictions of the writer are described definitely and clearly;—without ambiguity or disguise.—The argument is as beautiful as it is compact and conclusive. The whole paper is a just and striking specimen of genuine statesmanship;—such as is alone adapted to the exigencies, on which our country is thrown.—The bearing of the question on the Constitution is thus happily disposed of. Surely if Mr. Birney is a “man of one idea,” it sheds a clear and certain light on a great variety of objects, in the sphere of our relations.

“In complying, as I cheerfully do, with the request—to your first interrogatory, ‘*Would the proposed annexation be constitutional?*’ I answer in the negative.

“Our government is strictly one of delegated authority. The ‘powers’ imparted to it are carefully described and embodied in the Constitution. None of them authorizes the government, in any way, to accept of a cession of foreign territory. So far from it, they bear no relation, nor do they contain the slightest allusion to such an event.

“I do not forget that Louisiana and Florida, once foreign territory, were annexed to the Union; but the President who projected and consummated the purchase of the former, both knew and acknowledged whilst he was negotiating it, that it was unauthorized by the Constitution.

“Nor am I unaware that some among us, of high authority in such matters, maintain that, as the Constitution confers on the government the power of making treaties, it consequently confers the power to acquire territory by treaty. This is a two edged sword: for if the power to make treaties carry with it the incidental power to *acquire* without stint, territory of other nations, equally does it carry with it the power to *cede* without stint, the territory we already possess, to other nations. If we adopt the construction, that the treaty

making *department* is not to be limited by the 'powers' imparted by the people to the *government*—then may whole States be transferred to other sovereignties—then is the integrity of the Union—nay, our political existence itself, in the hands of a President and two-thirds of a quorum of the Senate.

"I am not averse to a liberal construction of the powers of the government, whenever the objects sought are plainly allowed in the Constitution. But when they are unknown to the Constitution, the liberal construction which becomes necessary to authorize them, is but another name for usurpation.

"It ought never to be lost sight of, that in this country the sovereignty, in substance, as well as in name, abides with the people ; that the powers of the government are but emanations or portions of that sovereignty imparted to such of the citizens as may be duly called to administrative functions ; and that these powers, whilst they are to be exercised solely for the general welfare, must not be exercised at random, but within the limits marked out by the people themselves in the Constitution. Should experience prove that these limits are too narrow, the people on being duly resorted to, will, through their own instrumentality, the States, enlarge them as they may deem it expedient. Mean time, the inconveniences arising from powers thought to be too much restricted, but which are susceptible of so complete a remedy, ought to be patiently borne with ; for they are as nothing, when compared with the uncertainties, the disorders, the perils, the oppressions attending a government all at loose ends, vacillating and distracted by the varying opinions and conflicting theories of those who may successively be called to administer it. Governments without number have been brought to nought by what is called a liberal construction of their powers ; but few have suffered loss by a rigid one. The liberal construction of to-day is not unfrequently made the ground-work of a more liberal, if not a licentious one to-morrow."

Aside, however, from the Constitution, Mr. Birney has grave objections to the annexation. They imply, as he describes them, far-reaching and comprehensive views as well as true magnanimity and warm benevolence. "To your second question—'Supposing it constitutional, would you be favorable to annexation on any terms?' I reply, I would not.

"The permanent success of a government must have



some relation to the extent of its territorial limits. Whilst they may, doubtless, be too narrow for the highest development of national prosperity, so may they be too large. Without saying that *our* territory is too large, I say, it is large enough for all the just and useful purposes of government.

“ I know no good reason why we should desire to have Texas united to us. The United States and Texas are not connected by large rivers watering both ; nor are they separated from other nations by deserts, or by chains of mountains forming joint barriers of protection, and indicating that we ought to be ONE nation. If we desire annexation because she is conterminous with us, Texas once obtained, we shall, for the same reason burn for the annexation of Mexico ; nor shall we be able wholly to quench our thirst but in the oceans which wash on all sides the continent we inhabit.

“ So far am I from thinking the annexation of Texas would be beneficial to us, I wish she were re-united to Mexico, and that as one people, they were rapidly advancing to the highest grade of intellectual and political power. To have such a power on our borders—one whose character, and whose rights we could not help respecting—would most favorably affect us, as I think, in a variety of ways. One only I shall allude to ; it would restrain that wild, buccanier spirit of adventure, unhappily existing to a great extent in our country ; a spirit that is at war with all solid improvement and true civilization, and which, unless juster notions can be made to prevail, will soon begin to set at defiance the restraints of our own government, and render the condition of weak communities on our borders one of constant insecurity and alarm.

“ As a private citizen, I would do all that I honorably could, to defeat the scheme of annexation. So would I in any other public station than the one to which your note refers. The President is a *department* of the government, and stands in an altogether peculiar relation to the country. ‘ Powers’ are entrusted to him, not so much with a view to his dictating or even leading in any particular line of policy which wholly regards the ordinary pecuniary interests of the community, as to his being the conservator of the Constitution and of the honor of the government. Should he hesitate to use these powers to prevent a violation of the Constitution, or to resist the legislative bodies acting under the impulse of an inflamed constituency, misled and demand-

ing of the government what it would be manifestly unjust and dishonorable in the government to grant—as, for instance, the repudiation of a national debt, or a fraudulent evasion of the obligations of a treaty—he would prove himself unworthy of the high trust reposed in him. Such a President as Washington—caring much for his country, little for himself would in such cases, breast the torrent with *all* his constitutional might, trusting that, in due time, wisdom would be justified of her children. But, in matters *purely of expediency or policy*, the executive ought not to be expected to cherish the feeling, or manifest the pertinacity that is generally considered allowable, if not commendable, in individuals differently situated. His duty *then* is, to fall in with the wishes of the people, matured and embodied in the deliberations of their representatives, although their views may, in important respects, differ from his.”

To the bearing of the question on *slavery*, Mr. Birney applies a powerful and practiced hand. The reader, who presuming that he already knows all about the matter, may be disposed to dismiss the following paragraphs with a hasty glance, we advise to pause a little. He may find himself greatly instructed and refreshed on ground, with which he had thought himself familiar. “My answer to your third and last inquiry—‘*Would you be willing to receive it as a slave territory?*’—may be anticipated generally, from what I have said in answer to your second inquiry. But I trust you will receive indulgently a brief explication of my views on this subject :

“I allow not to human laws, be they primary or secondary, no matter by what numbers, or with what solemnities ordained, the least semblance of right to establish slavery, to make property of my fellow, created, equally with myself, in the image of God. Individually, or as political communities, men have no more right to enact slavery, than they have to enact murder or blasphemy, or incest or adultery. To establish slavery is to dethrone *right*, to trample on *justice*, the only true foundation of government. Governments exist not for the destruction of liberty, but for its defense ; not for the annihilation of men’s rights, but their preservation. Do they incorporate in their organic law the element of *injustice*?—do they live by admitting it in practice? Then do they destroy their own foundation, and absolve all men from the duty of allegiance. Is any man so besotted as, for a moment, to suppose that the slaveholder has an atom of right to his slave ; or that the slave has rest-

ing on him an atom of obligation to obey the laws that enslave him, that rob him of every thing—of himself?—No one: else why do all just men of all countries rejoice, when they hear that the oppressed of any country have achieved their liberty, at whatever cost to their tyrants?

“On this ground, were there no other, I should say, we can not receive Texas as a slave territory. We have no right to *continue* chains which we have no right to forge or to impose.

“But there are other grounds:—the Constitution of the United States does not permit the organization or the continuance of slavery on domain brought within its exclusive jurisdiction. None of the specified powers authorize the establishment of slavery; nor is its establishment necessary or proper for carrying into execution any of these powers.

“Again: Two of the objects of the government set forth in the preamble of the Constitution are, *to establish justice, and to secure the blessings of liberty*, in the land. With justice and liberty, slavery is wholly incompatible. All men so regard it. What then, shall we do? Shall we so interpret the silence of the Constitution on this matter as to make it outweigh the establishment of justice, and the perpetuation of the blessings of liberty, those high aims of the Union, *expressed* in the directest terms? Surely not.

“But, admitting that, on constitutional grounds, no valid objection can be made against the acquisition of foreign territory; who does not know, that every institution, law, usage or custom existing in the acquired territory, inconsistent with the fundamental principles of the government making the acquisition, ceases at the moment of annexation, as a matter of course. This is so plainly the instruction of common sense as to call for nothing but the mere statement of it. Thus, when the District of Columbia was ceded to the United States, the slavery then existing within it, being irreconcilable with fundamental objects of the government, *the establishment of justice and the perpetuation of liberty*, became extinct the moment the transfer was made. There was not—there is not—there can not be, a slave within the District of Columbia, without totally disregarding not only the spirit but the letter of the Constitution. The legislative indirection by which slavery was continued in the District after the transfer, was a device wholly unworthy the representatives of a people who had just adopted such a Constitution as ours. Could the question of the *constitutionality* of slavery in the District be submitted to a competent tribunal

—one not made up of actual slaveholders and others under the bias of slavery—there could not be a moment's doubt as to the character of the decision. Before such a tribunal, the slavery side of the question would be too bald for argument.

“So, too, in regard to the slavery that existed in Louisiana and Florida, at the time of their transfer to the United States. But it was determined on by our rulers that *it* should be sustained.—With that view, as the most feasible device, provision was made in the treaties of purchase for securing to the then resident slaveholders of these territories their *right* (?) of continuing to hold their slave property. By what authority? No *power* had been imparted by the people, (admitting, for argument's sake, that they *could* impart such a power,) to the government itself, or to any department or office of it, to establish or continue slavery within her exclusive jurisdictional domain. To infer from the silence of the Constitution in regard to slavery as a national-government-concern, with full knowledge, too, that *deliberation* on this subject engaged the attention of the convention;—to infer, I say, from this silence, that the people intended to clothe the President and two thirds of a quorum of the Senate with authority to introduce slavery into the government, and this, too, knowing, as we do, that *justice* and *liberty* had been placed as sentinels in its vestibule, would not only be absurd, but eminently disrespectful to the very source of all constitutional authority. Had Mr. Jefferson and Mr. Monroe accepted treaties providing for securing their peculiar privileges and immunities to an order of nobility or a religious establishment that might have existed in Louisiana and Florida when they were respectively ceded, they would not, in so doing, have shown a more wilful disregard of the Constitution, and of the people, by whose authority it was made, than they did in spreading the mildew of this accursed system over the largest and fairest portion of our national domain.

“To this twofold violation of the Constitution, in the act of acquiring territory and in the provision made for the permanency of slavery, a third, of kindred complexion with the last, may be added. Instead of confining the operation of the treaties to the cases of the resident slaveholders of Louisiana and Florida, the only ones provided for, the slaveholders of the States were allowed, without restraint, to introduce their slaves into those territories. From the first, this was permitted under our slaveholding executives, and it has been persisted in so long without being interrupted or even



questioned, that Louisiana and Florida slavery, as parts of the whole system, are now considered to be as firmly established, ay, and as lawfully too, as is the slavery of Georgia or of South Carolina, under their respective black codes.

"The unauthorized purchase of Louisiana must be regarded as, in its consequences, the most disastrous event for our country to be found in its political history. In saying this, I neither forget nor underrate the advantages of the acquisition, in a merely territorial point of view. But might not those advantages have been as certainly secured, without bringing on ourselves the odium and the ills which we are now suffering, from having extended and strengthened the empire of slavery? Would not the people, on being properly appealed to, have so amended the Constitution as to have authorized the acquisition, whilst they carefully guarded against the continuance and diffusion of slavery in that vast region, out of which three slave States have already been carved?

"Next to the purchase of Louisiana, in calamitous consequences to the country, was the admission of Missouri into the Union, as a slave State. Into this struggle the slave power entered with a fierceness that did not seem to characterize it in former times. But it did not forget—it never does—to eke out the lion's skin with the fox's tail. That struggle, in which, too, treachery in the North did its part but too well, issued in the complete triumph of the enemies of the Constitution. Its friends, vanquished, betrayed, retired discouraged from the field. From that time till the present, the government has been swayed by men who show, in the enslavement of their fellow-men, how heartily they despise the truths of the Declaration of Independence; by men whose lives are but the expression of the coarse, barbarian contempt with which every claim of humanity, and every principle of just and equitable government may be spurned and trampled on in the face of God and man.—Their power, too, has been exercised in the same insolent spirit of overseership that marks brutal rule at home over the ragged starvelings of their rapacity and avarice. The free States send their members of Congress to Washington to be overawed, corrupted and despised. The venal orators and declaimers of Athens, who sold themselves and their country to Philip, were not looked on with supreamer contempt by their supercilious purchaser, than are the betrayers of the North by their slaveholding overseers, when driving them to their daily task of official meanness and servility.

“Such is the condition of our affairs now—one for which we have been prepared, mainly by the two annexations that have already taken place, and by the admission of Missouri into the Union. It is a sad condition—but not devoid of hope. For again are the friends of the Constitution and of universal liberty rallying, and fast swelling the ranks of a party in whose success lies, as I firmly believe, the only reasonable ground of hope for the rescue of the Republic from its most dangerous and most insidious foe. Already is it evident, that the constancy, and energy, and activity of the Liberty Party are not without some of their proper fruits. The sagacious begin to discover that the slave power has met with an adversary more formidable than any it has yet had to cope with—that confusion and despondency are showing themselves among the leaders of its battalia ;—that the rescue of the government from that dark power, and the crowning blessing of our holy struggle, *its utter and everlasting overthrow*, shall, at no very distant period, cause the song of praise and thanksgiving to ascend from all the borders of the land to HIM in whose might we have fought, and who has given us the victory. At such a time, in such a crisis to receive Texas as a slave territory would be a grievous event to be added to the already unhappy catalogue of events of kindred character, that have been used to establish injustice in the land, and to perpetuate the evils of the most abominable tyranny that man has ever usurped over his fellow man.”

We have said, that the selection of James G. Birney, by the Liberty Party as their candidate for the presidency, was marked by great wisdom. The more carefully his character is studied the more evident will that appear.

The *standard* to which he avowedly adjusts his aims and exertions, demands our earliest attention. If that be false, we have in no case a right to expect sound character. On what grounds can healthful legislation be expected of rulers, who unblushingly declare, that “the force of moral principle **MUST** be transgressed by the conventional rules of human society?” Who thus openly avow their allegiance to the grand usurper? And form themselves on the model of his character? For this clearly is a declaration of war in the name of the Devil against the “only Potentate”—the source and soul of all rightful authority. Wherever the arrangements of human society are adjusted to this declaration, and especially governmental arrangements, there loose reins are thrown upon the neck of passion, and evil under every form

may be expected to luxuriate.—But to no such declaration can Mr. Birney subscribe. The God, in whom he believes is no “rhetorical flourish,” adorning his creed without touching his heart and controlling his conduct. *He is a KING*, wise and powerful, to whose authority it is our highest privilege to bow, not merely in the catechisms, we may recite; the sermons, we may preach; the psalms, we may sing, but especially in our aims, exertions, and expectations. Every demand of His law, Mr. Birney regards *as a duty*, to whatever relation it may be applied—on whatever occasion it may be asserted; and duty with him is a sacred thing, not merely to be eloquently discoursed of, but to be *faithfully done*; and this no more in private than in official life. It is his conviction,—a conviction, which he is not ashamed on the gravest occasions to express, “‘that there is no wisdom, nor understanding, nor counsel against the Lord’—that no people can be permanently prosperous or happy, who in heart or practice deny His right to reign on earth among men. He wholly repudiates any and every code founded on the pernicious error, that the commandments of God may innocently or advantageously be ‘transgressed by the conventional rules of human society.’”

An affectionate regard for the Divine authority, cherished in a manly soul, is the root of every human virtue. It is the secret of sound character. Wisdom, Strength, Beauty; these are the natural fruits. Where this is, there you may find veracity, simplicity, modesty, candor; united with courage, decision, fidelity;—there you may find disinterestedness, generosity, and magnanimity. And we demand of those, who are best acquainted with him; for which of these qualities is not James G. Birney remarkable? In the prominent and characteristic transactions of his life, these qualities are beautifully blended. When convinced that slaveholding was in opposition to the Divine authority, what course did he pursue? Did he, still holding on to his property in slaves, try to satisfy his convictions by loud professions and empty declamation? And while riveting the yoke on the negro’s neck, did he prove his regard for Freedom by inveighing against the oppressors of the Greeks and Poles? And when pressed hard with the glaring inconsistencies, by which such a course must be marked, did he take refuge in the distinction, the offspring of shallow brains and stony hearts, so dear to every hypocrite, *between the abstract and the practical*? Not he. He embodied his convictions in his doings. He applied his principles to the rela-

tions and objects, which lay in his own sphere of responsibility. He yielded to his slaves at once and cheerfully—"without money and without price"—the God-given prerogatives, which they had been deprived of. No compensation, not even applause, did he think himself entitled to. Having set them free, he gave them in acts of substantial kindness, the benefit of his wisdom and power—offering them counsel, affording them employment—assisting them in acting well their part in the new world, where he was at home and they strangers. And after years of reflection did he repent of the sacrifices he had made to Justice and Humanity? No indeed. At the settlement of his father's estate he placed upon the same altar a still more costly sacrifice. At his own expense, he raised all his father's slaves to the dignity of freemen. THAT WAS JAMES G. BIRNEY.

The freedom of speech and the liberty of the Press were assailed, rudely and malignantly; and assailed just there where the welfare of the Republic was most vitally at stake—where of course their unembarrassed exercise was most imperiously demanded. All our fellow citizens were thus brought to a test, by which their regard for their country was fairly tried. No man, who had a drop of healthful blood in his veins, would in any such case care a fig through what medium the stab was aimed at the heart of the Republic. It would be to be expected, that the cunning and remorseless tyrants, who would thrust a gag into their neighbors' mouths, would select for the experiment such as had for some reason or another been exposed to popular odium—such as without means of defense might easily be set upon by the rabble. But a true man would not permit himself to be thrown off his guard by an artifice so stale and pitiful. However and wherever his country might be assailed, he would come to the rescue; though in so doing he might be brought to the side of men, whose characters and designs he regarded with abhorrence. But how was it with our fellow citizens when they saw the freedom of speech and the liberty of the Press assailed? How, especially with those, who occupied the high places of the Republic—who were generally thought to be entitled to the strongest expressions of popular esteem and confidence? *Did* they come to the rescue? *They?* They were but too generally the assailants—the very traitors, who had formed a conspiracy to dip their parricidal hands in their country's blood. They were for free speech and an unfettered Press *in the abstract*; but *practically*, and especially where their own selfishness and



folly were by such means likely to be exposed, they were against all such prerogatives. Where, therefore, they did not, as in multiplied instances they did, lead on the thoughtless rabble here and there, to such acts of violence as might wrest away from their fellow citizens these inestimable rights and privileges, they regarded such enormities with secret satisfaction—refusing to lift a finger to vindicate the majesty and honor of the Laws, which they saw trampled under foot. Such was their regard for what they themselves pronounced essential to the welfare of their country.—But so it was not with James G. Birney. He rushed in between his country and the knives, which assassins were aiming at her bosom. The rights, which he saw invaded, he was resolved to defend in the sphere of his responsibilities; and to defend at any price—at all hazards. Without the liberty of speech and of the Press, he knew full well, that Freedom would be an empty name and nothing more. If he might not *live* a freeman, a freeman he could *die*. That was a privilege, which the worst times could not wrest away. See how erect he stands amidst the cut-throats, by whom he was surrounded both in Kentucky and Ohio—wretches, who bade him hold his tongue or submit to lawless violence.—How calm, collected, dignified. He holds on his way impelled and sustained by conscious rectitude, and leaves his enemies to digest their spleen, and execute their threats according to their ability. To such men, and such men alone may we safely confide the keeping of those rights and privileges, which are the life-blood of the Republic.

With the shattered remains of an estate, greatly reduced by the sacrifices, which he had made to Justice and Humanity, Mr. Birney finds himself at home on a farm, on the very confines of civilization in Michigan. Many men there are, who speak well of *manual labor in the abstract*. What attitudes and gestures, when they open their eloquent lips, in praise, say of the *Ashland farmer*! But when did their hero ever touch manly toil in any form—when did he ever thus soil one of his lady-like fingers? He, and such as he, are farmers, who live daintily on the unrequited labors of the poor—who shamelessly force the sweat-drenched, heart-broken operative, to reap their fields without even a hope of remuneration!—The *farmer of Saginaw* honors manual labor after quite another fashion. He applies his own manly muscles to it, and “eats his bread through the sweat of his brow.” Let his example in this respect attract general imitation and slavery must disappear at once and forever.

Hitherto our countrymen have committed *their financial interests* to those, who blast whatever they may touch in the whole sphere of Political Economy; who have reduced large portions of the soil to sterility and desolation; who have been the occasion of wide-spread bankruptcy; who are never more in their element than when busily engaged in making beggars and selling children. Their *liberties*, they have intrusted with those, who pronounce "slavery the corner-stone of the Republic;" decry the Declaration of Independence as a "rhetorical flourish;" and reduce to chattelship as many of their brothers and sisters, as they can lay their hands on! The *protection of their lives* they have expected at the hands of those, who commit murder on the slightest provocation and without the least symptoms of remorse; who would sacrifice hecatombs of men to a usage too absurd for any Bedlam to endure! They have all along been looking to see the interests of a sound morality a thriving under the influence of gross sensualists and shameless debauchees! As if a bad private character were the best of all pledges for good public conduct! What infatuation! When shall we, as a People, learn the lesson, which Wisdom itself has a thousand times repeated in our ears, that good men out of the good treasure of their hearts bring forth good things; and that evil men out of the evil treasure can be expected only to increase the power and extend the sway of evil? Thus taught, we shall be sure, whether we are many or whether we are few, so to wield the elective franchise as to promote our own improvement and our country's welfare. Thus taught, we shall welcome to our inmost hearts the chiefs, which men, distinguished for integrity, wisdom and power, are entitled to assert. This lesson once impressed upon the heart of this Republic, and such men as JAMES G. BIRNEY will occupy the high places of society, diffusing a healthful influence and scattering rich benefits all around. May the day soon dawn!



VIEWS  
OF  
AMERICAN CONSTITUTIONAL LAW,  
IN ITS BEARING UPON  
AMERICAN SLAVERY.

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BY WILLIAM GOODELL.

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SECOND EDITION:

REVISED, WITH ADDITIONS.

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"The Reasonableness of Law is the soul of Law."—(Jenks.) *Com. Law Maxim.*  
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## INTRODUCTION.

Sure triumph of truth—Former construction of the British Constitution, by York, Talbot, Blackstone, and Mansfield—New construction involved in the decision of Lord Mansfield, in the Somerset Case, (1772)—Revolution in English Jurisprudence—Secret of that Revolution—Granville Sharpe—Origin and foundation of law, immutable and eternal.

THE main views I have presented will assuredly be condemned,—and in that condemnation I read the sure presage of their prevalence. They will be condemned, in this selfish and bewildered world, *because they are true*, and they will ultimately triumph, *for the same reason*. The popular suffrage may determine whether they shall be received in time to prevent the wreck of the present Federal Government:—but it can no more decide against their *final* reception than it can decide against the final reception of any other truths of science, physical or moral. There is immortality in Truth. But all lies are doomed.

Up to the month of May, 1772, it was as currently believed in England, that the slaves held and sold there, were thus held and sold, *legally*, and in accordance with the *British* Constitution, as it is now believed that the slaves held and sold in the United States of America, are thus held and sold, *legally*, and in accordance with the *American* Constitution. But the decision of Lord Chief Justice Mansfield, in the case of James Somerset, at the date above mentioned, revolutionized the jurisprudence of the realm, overthrew ancient precedents, reversed venerated decisions—and inscribed beneath the cross of St. George, on the royal flag—*"slaves can not breathe in England."*

And what was the secret of that mighty revolution?—It was this.—The simple foundation truth of all legitimate and valid jurisprudence, divine and human, that *Right is authority*—that *reason* is the soul of *law*, had obtained a lodgment in *one human heart*, that truly apprehended its meaning, and

did not hold it an idle abstraction. That heart was *not* the heart of a York or a Talbot, (the Attorney and Solicitor General of their day,) who, in 1729 had recorded their opinions in favor of the slave master's claim. It was *not* the heart of a titled judge, Dr. Blackstone, who, at a later day, finding that a passage in his learned Commentaries was effectively quoted, at pending trials, in favor of the rights of the enslaved, adroitly furnished a new and revised edition of them, in season to be used, triumphantly, *during the trials*, by the slave master's counsel. It was *not* the heart of Sir James Eyre, Recorder of London; who, when retained as counsel, on behalf of the oppressed, adduced, to dishearten his employer, the opinions of York and Talbot, and added that the Lord Chief Justice was agreed with them. It was *not* the heart of any one of those eminent lawyers who, when consulted by the friends of the enslaved, declared "that the laws were against them." It was *not* the heart of that Lord Chief Justice Mansfield himself, whom history has ranked with "the most distinguished lawyers" of that age, and who along with them, "crouched down beneath the lie" (of legal enslavement) and "affirmed its validity"—the same Lord Chief Justice, who in 1771 (one year before his own immortal decision *against* legal slavery) was so firmly attached to the ancient precedents in its *favor*, as to refuse giving judgment against the noted kidnapper, Stapylton, when an honest jury had given verdict against him;—that Chief Justice Mansfield, who, during this same Somerset trial, when overpowered by the argument for liberty, and dreading the public rebuke, delayed judgment, hesitated, sought, unsuccessfully, to shun the issue, by beseeching the slave master to manumit the slave, and whose final decision (the boast and glory of his country) was delivered with a "lawyer-like circumlocution" that betrayed the inward bent of his mind, and the reluctance with which he yielded to the claims of equity, and the rising voice of human nature.\*

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\* See Charles Stuart's Memoir of Granville Sharpe, which contains in detail, the particulars above alluded to.

No! It was *not* to hearts like these, that the "soul" and vitality of British Constitutional Law, and of *all* law, were revealed! It was reserved to GRANVILLE SHARPE, without rank, without office, without literary pretension, or legal erudition, in the face of all the law authorities of his age and nation, to plant himself upon the *right* and the *true*, to breast the current, almost single handed and alone, till he saw the Right prevail, and Mansfield officially announce it—and Blackstone condescendingly record and endorse it—thus rearing a column of glory under which their own learned lumber, with that of Talbot and York, lies buried out of sight, among rubbish of the dark ages! Thus shall it always be!

Whether my argument has been happily presented, time and the public voice must determine, though they can not nullify the truths I present. I only ask the candid reader to weigh the evidences of those truths. I will not dishonor his reason by asking him whether the reception and practice of them would degrade our common humanity, or offend our benevolent CREATOR. There is neither legitimate authority, nor binding precedent, nor valid law, except in harmony with *His will*. Let the Yorks and the Talbots, the Blackstones and the Mansfields of America understand *that*:—and let them remember their relation to the PEOPLE, to whom Divine Providence is rapidly teaching the alphabet of that sublime truth. It is for the people I have written;—for the *people*, by the grace of God, and under his authority, free, independent and sovereign—the divinely appointed arbiters of their own destinies, the students (if they will understand themselves) and the subjects, not the framers, nor yet the arbiters of those original laws, immutable and eternal, upon which human nature itself was modelled, and from the sure operation of which, no age, no nation, no race of men, ever escaped.



## GENERAL NOTE.

In the preparation of these pages, I have had recourse to whatever, within my reach, was thought adapted to throw light on the topics under discussion. I have availed myself, freely, of the researches of my fellow-laborers, in the cause of human freedom, who, in their constitutional investigations, have preceded me. Very few of them have looked, however, in the direction at which I have aimed, and those few have confined their inquiries to only one or two points, and built their argument on much narrower grounds. The right to restrict slavery, on the admission of new States—the power of Congress over the Federal District and Territories, and over the inter State slave-trade—the constitutionality of the law of '93—the obligation to return fugitive slaves—the right of trial by jury—the aggressions of the slave codes on the rights of the free States—the right of petition—the freedom of speech and of the press—*these* have been the more common topics of discussion, and the argument is perhaps exhausted, on the commonly occupied grounds.—In the field I have now entered, the marks of occupancy are comparatively sparse and new. Yet many implements wielded in other departments may find a place here.

## CHAPTER I.

### THE QUESTION AT ISSUE.

Its meaning and magnitude—Impossibility of evasion—Testimony of American Statesmen—No middle ground—Illustrative politics of the country—State action—Action of the Federal Government—The alternative.

Do we live under a free government, or a despotism? Does the organic law of our national government enable it to "establish justice?" Or is it founded upon a "compromise" with injustice? Does it "secure the blessings of liberty" to its founders and their "posterity,"\* or does it guaranty the curses of slavery to large and increasing numbers of them, and ensure the ultimate wreck of the whole nation's freedom? Does it "form a more perfect union," or does it by "*permitting* one half of the citizen† to trample upon the rights of the other, transform those into despots, and these into enemies?"—thus drawing down upon itself the "execration" of wise statesmen? Does it "ensure domestic tranquility," or does it "guaranty" or tolerate by "compromise" the most perfect possible specimen of "domestic" disorder? Does it "provide for the common defence," or does it "compromise" the security of the most defenceless of its citizens—"guaranty" or permit the successful invasion of all their rights, and "guaranty" likewise, or permit, by "compromise" the well known cause of all our great exposure to internal commotion—the admitted and insuperable obstacle to any effective defence against a foreign invasion, by a "third rate maritime power?" Does it "*provide* for the general welfare," or does it "*compromise*" that welfare, "*guaranty*" its deadliest enemy, and bind its citizens to stand ready, at a moment's warning, to engage in a bloody contest against liberty, against their own declaration of self-evident truths, against man's inalienable rights—"a contest" in which "no attribute of the Almighty could take sides with them?" Is it a government in favor of human improvement, human liberty, and human happiness, or against them? In favor of virtue

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\* "The noblest blood of Virginia runs in the veins of slaves."

† In this expression of Jefferson, observe the conceded *citizenship* of the enslaved.—Are American citizens enslaved legally? And without a violation of the American Constitution?

and morality or against them? Is it a government in accordance with the Divine will or against it?

These questions are propounded, *not* in respect to any, or to all the successive *administrations* of the national government, but in regard to its original organic structure—its inherent nature and character—its *Constitutional Law*

Is the Constitution of the United States, rightly expounded, in favor of liberty or against it? In favor of slavery or against it? Does it “secure liberty” and accordingly prohibit its opposite—slavery? Or does it rest upon a “compromise” with slavery, or a “guaranty” of slavery, and therefore “compromise” the question of liberty, or “guaranty” its downfall?

In other words, is the Constitution of the United States, in truth and reality, what it professes, in its Preamble, to be—or is it, at bottom, the very opposite of its high professions? Is it a delusion—a deception—a fiction—a sham? Should the friends of liberty, of human nature, and of the loving Father of human nature, cling to, and cherish it? Should they labor to disabuse it, and wield it, for its professed and its real ends?—Or on the other hand, should they abandon all hope from that quarter? Should they expect from it, (faithfully administered, and in accordance with its true character,) no desirable union, no establishment of justice, no assurance of domestic tranquility, no provision for the common defence, no promotion of the general welfare, no guaranty of the blessings of liberty to themselves and their posterity? Is it incapable of securing those “inalienable rights, life, liberty, and the pursuit of happiness”—for the securing of which, governments are instituted among men, deriving their just powers (under God) “from the consent of the governed?” Are its powers too “*limited*” to “secure” those rights? Does it “*compromise*” and has it therefore “become *destructive* of these ends?” And is it accordingly, “the right of the people to alter or to abolish it, and to institute a new government, laying its foundation on such principles, and organizing its powers in such form, as to them shall seem most likely to effect their safety and happiness?” Is the right of revolution our only avenue to the security of all those *other* rights which our forefathers sought to secure and perpetuate, when in their enterprise of founding a new government, they “appealed to the Supreme Judge of the world for the rectitude of their intentions” and “mutually pledged to each other, their lives, their fortunes, and their sacred honor?”

## IMPOSSIBILITY OF EVASION.

THE point and significancy of these questions are not to be *evaded* or turned *aside*, by the customary references made to the peculiar structure of our government—the limitations of the Federal authority—the unimpaired sovereignty of the several States—the alleged “compromises” or “guaranties” essential to the adoption of the Federal Constitution, in the first place, or to a continuance of the Union cemented by it, now. On all these points, and on all others of the same complexion, the persons who bring them forward may make such statements as they may think proper—may adopt such theories as they may prefer, and for the argument’s sake, (so far as the positions of *this* chapter are concerned) we may admit either one, or another, or all, of those statements and theories to be correct—without changing or modifying, in the slightest degree, the *issue* we have made up, and presented. Such considerations can not change or *avert* the issue, though they *may* help to *decide* it.

The question is, whether the structure of our National Government, (whatever it may *be*, in detail, and whatever circumstances may have *shaped* it) is such, *in matter of fact*, as to enable it to “secure *liberty*” and repress despotism? Whether it *can* protect human rights, and prevent violations of them?—Whether it is *competent to do the things* promised to the People, and to posterity, in its Preamble? Or whether, from any cause, it is so “limited”—“balanced”—“compromised,” “guarantied,” crippled, forestalled, fettered, thumb-screwed, and gagged, that it *can do nothing of the kind*?

Is it, what it professes to be, a *civil government*, empowered to “*establish justice*” (to “execute judgment between a man and his neighbor”) “to ensure domestic tranquility, provide for the common defence, and secure the blessings of liberty to ourselves, and our posterity?” Or on the other hand, was there a mistake made, in supposing that the provisions of the Constitution in detail, were such as to permit and enable the Government to accomplish these high ends?

It has, somehow, come to pass that the people of the twenty-six States constitute ONE NATION—and are bound up, in one and the same destiny. This is the admitted fact. It is claimed, too, that the Federal Constitution contains a description of the arrangements by which they are thus bound. What are those arrangements? Do they describe a civil government? Or only a confederacy? Or a treaty between disunited States? If they describe (as will be conceded by



most men) a civil government over United States—what *is* that government, *in the essential elements of its character*? Is it a free government or a despotism? Is it in favor of liberty or of slavery?—*Both, or neither*, it CAN NOT be. One or the other, it undoubtedly IS.

If we *have* a civil government, deserving the name, it embodies, of course, the vital elements of *all* valid civil government. What *these elements are*, we shall consider as we proceed;—If we have what *professes* to be a civil government, and yet *lacks* these vital elements, it is high time we had detected the cheat. We *pay* enough for the support of it, to feel ourselves entitled to the benefits it has promised us. If it *can not* yield them, let us know the worst of the case, and either get along without having our work done at such vast expense, or get better help, for our money.

The more successful any persons may be, in making it appear a plain case that the peculiar structure of our Government, the limitations of the Federal authority, the unimpaired sovereignty of the States, the guaranties or the compromises of the Constitution, the implied understanding of the contracting parties, *or any thing else*, has put it out of the power of the National Government to “*establish justice*,” “*secure the blessings of liberty*,” (including of course, the suppression of *injustice*, and of tyranny,) the more successful of course, they will be, in proving that the experiment of liberty, under our present Constitution, is a failure, that its place must be supplied by a better, or that civil and religious liberty must be relinquished. Such a construction of the Constitution loads it with a mill stone that must sink it—and sink the American People with it, unless they speedily cut themselves loose from it.

To say as some do, that the National Government, in its organic structure, is *neutral* on the question of liberty or slavery, is directly to contradict its express *professions*. It is moreover a statement of that which is impossible in the nature of things. But were the statement never so correct, such a fact would decide the question that the Constitution and the National Government are worthless, unable to fulfil their high promises, or do otherwise than disappoint the expectations based upon them.

To represent, as do others, that the Constitution is partly in favor of liberty, and partly in favor of slavery, is to represent that it is a house divided against itself which can not stand. To say that it is in favor of general liberty and partial bondage, is to say that it is in favor of a known impossi-

bility, that can never be attained. To say that it can secure *general liberty*, and at the same time guaranty *local slavery*, or even compromise or permit its existence, is to affirm the greatest of moral absurdities, to deny self-evident truths, to falsify human history, to libel the unity of human nature, to profess a disbelief of the first axioms of political science—the connection between moral cause and effect:—It is to insult the common sense and moral perceptions of an intelligent and free People.

### TESTIMONY OF AMERICAN STATESMEN.

In unison with these statements, and with the implication that the power of the National Government, (if it has any) to “secure the blessings of liberty” is, of necessity, the power to abolish slavery, we cite a few extracts from the writings of eminent American statesmen.

THOMAS JEFFERSON.—“And can the LIBERTIES of a nation be thought SECURE when we have removed their *only* firm basis, a conviction in the minds of the people that these liberties are the gift of God? That they are *not to be violated, but with his wrath?* Indeed, I tremble for my country when I reflect that ‘God is just, that his justice can not sleep forever.’”

“When the measure of their tears shall be full—when their tears shall have involved heaven itself in darkness—*doubtless* a God of justice will awaken to their distress, and by diffusing a light and liberality among their oppressors, or, at length, by his *exterminating thunder*, manifest his attention to the things of this world. and that they are not left to the guidance of a blind fatality.”—*Notes on Virginia.*

In the same connection, Mr. JEFFERSON describes the whole commerce between master and slave to be “the most unremitting *despotism* on the one part and degrading submissions on the other”—and affirms that the child of a slaveholding parent—“*nursed, educated, and daily exercised in tyranny*, can not but be stamped by it with odious peculiarities.”—Can these “*educated tyrants*” understand and guard *civil liberty*? Can they be the rulers of a *free People*?

WILLIAM PINCKNEY.—“For my own part, I have no hope that the stream of *general liberty* will flow forever, unpoluted, through the mire of *partial bondage*, or that those who have been habituated to lord it over others, will not, in time, become base enough to let others lord it over them. If they resist, it will be the struggle of *pride and selfishness*, not of principle.”—*Speech in the Maryland House of Delegates, 1789.*

JOHN JAY.—“Till America comes into this measure [the abolition of slavery] her prayers to Heaven” (i. e. for liberty) “will be *impious*. This is a strong expression, but it is just.”—“I believe God governs the world, and I believe it to be a maxim in his, as in our court, that he who asks for justice must do it.”—*Letter from Spain, 1780.*

The doctrine of Jefferson, of Jay, and of Pinckney, is evidently this:—LIBERTY *can not be secure in a country where there is slavery*:—they are opposites and can not harmonize.

One or the other must give place to its antagonist. God will not give liberty to a people who permit slavery.

If it be said, of any government, that it *can not abolish slavery*, in the country over which it is established, the meaning of the statement, if it have any intelligible meaning, must be, that such government can not "secure the blessings of liberty" to the country over which it is established. If the abolition of slavery be left wholly to "moral suasion," then the preservation of liberty is left wholly to moral suasion, and the functions of civil government cease. No arrangements, influences, or machinery of any kind, can do more to diffuse light, than they can to dispel darkness; to secure warmth, than to prevent cold; to "secure liberty," than to abolish slavery. Can any truisms be more self-evident than these?

If the whole question of *slavery* is left, exclusively, to the State Governments, then the whole question of *liberty* is left exclusively to the State Governments, and the National Government becomes a mere nose of wax—the fifth wheel to the coach, a nullity by which no man can be bound.

Further testimony might be cited, from prominent statesmen and literary gentlemen, by no means obnoxious to the charge of prejudice against slavery, or under zeal for its abolition. Speeches in Congress, and in State Conventions, Governors' Messages, Resolutions of State Legislatures, &c., &c., abound in varied expressions and implications of the sentiment that the *continuance of slavery involves its virtual extension, in some form, over the mass of the laboring population of the country at large*. In the same connection with arguments for the perpetuity of slavery, and demands for the suppression of efforts for its overthrow, it has been urged, from these high sources, that "those who earn their daily bread by the sweat of their brows can never enter into political affairs,"\* that "the relation between the capitalist and the laborer, in the South is kinder and more productive of genuine attachment, than exists between the same classes, any where else on the globe,"† that "gentlemen" (Representatives in Congress) "from the North, must not start at this truth," that "*one class*" of citizens must practically and substantially *own another class*, in some shape or form"‡—that while the non-slaveholding States "it is hoped" will be prompt to suppress "Anti-Slavery Societies"—"the sober and considerate portion of the citizens of the non-slavehold-

\* Benjamin Watkins Leigh, Speech in Virginia Convention for amending the Constitution, 1829.—† Prof. Dew, of William and Mary's College, Va.—‡ Hon. Mr. Pickens, Speech in Congress, Jan. 1836.

ing States will reflect whether the form in which slavery exists in the South, is not one modification of the universal condition of laborers," who "with few exceptions," have as little "volition or agency in the distribution of wealth" as the slaves of the South—that the system of labor among freemen, is "not less oppressive" than that among slaves\*—that "the South has less trouble with their slaves, than the North has with her free laborers"†—that where menial services "are performed, by members of the political community, a dangerous element is introduced into the body politic"—that the slaves if emancipated "bleached or unbleached"—and admitted to "an equal participation of our political privileges" would exhibit "a revolting spectacle"—that "slavery supersedes the necessity of an order of nobility"—and is "the corner stone of our republican edifice"—that "it will be fortunate for the non-slaveholding States, if they are not, in less than a quarter of a century, driven to the adoption of a similar institution, or take refuge from robbery and anarchy, under a military despotism,"‡—that the abolition of slavery, "gradual or immediate" is rendered impossible by "*the absolute want of power on the part of the General Government,*" and by "the immense amount of capital which is invested in slave property"—that the "dogma" is "visionary—which holds that negro slaves can not be the subject of property"—that "*that is property which the law declares to be property*"—that "two hundred years have sanctioned and sanctified negro slaves to be property"—that "the moment the incontestible fact is admitted that negro slaves are property, the law of moveable property attaches itself to them, and *secures the right* of carrying them from one State to another, where they are recognized as property"—that "the consequences of abolishing slavery, were the measure possible, would be such that abolitionists themselves would shrink back in dismay and horror" from them—that "*in the progress of time, some one hundred and fifty or two hundred years hence, but few vestiges of the BLACK race will remain, among OUR posterity*"|| so that the interminable slavery, so long "sanctioned and sanctified"—so "incontestibly" identified with the right of "moveable property," thus securing perpetuity to the domestic slave trade, and with the whole North, (under the law of '93) as its hunting ground, without jury trial,—a slavery

\*Hon. John C. Calhoun's Mail Report, U. S. Senate, Feb, 1836, and accepted by that body.—† Mr. Hammond, of South Carolina, Speech in Congress.—‡ Message of Gov. McDuffie to the Legislature of South Carolina, and approved and acted upon by that body.—|| Speech of Hon. Henry Clay, in the U. S. Senate, Feb. 7, 1839.



and a slave-trade which *the General Government has no power to terminate*—and which none of the State Legislatures, (by the late decision of the Supreme Court of the United States)\* has a right to exclude from the field of their jurisdiction—is a *slavery and a slave-trade* to be perpetuated “AMONG OUR POSTERITY”—“*with but FEW VESTIGES of the BLACK race*” remaining!

### NO MIDDLE GROUND.

Let the *assumed premises* of Mr. Clay be conceded to him, (viz:) the right of property in man, under American Constitutional Law—the legality of slavery in America, including the inter State slave-trade under the Constitution of the United States, and the “absolute want of power on the part of the General Government” to abolish this American slavery and slave-trade, and all the rest of his argument, with its tremendous conclusion, follows of course, unless a ray of hope might reach us from the good will and pleasure of the legislatures of the slave States themselves.†

Not less logical and demonstrative are the conclusions of Gov. McDuffie’s Message, paradoxical and extravagant as they may seem, unless we start, in the outset of the argument, upon the *opposite principle*, and affirm that American Constitutional Law regards “all men” “bleached or unbleached” as “created equal, and endowed by their Creator with certain inalienable rights—life, liberty and the pursuit of happiness.”—On another assumption, it is manifest that our Government regards men as *unequal*: and if this be true, it is evident that *condition* and not *color*, (according to both Clay and McDuffie,) must ultimately become the sole distinction between the privileged and the servile.

Every government is based upon *some* principle—is based upon either *one or the other of two* principles—the principle of human *equality*; or the principle of human *inequality*, of domination and subjection. If the American Government is

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\* Decision in the case of *Prigg vs. the State of Pennsylvania*.

† It seems not quite certain that a little variation and extension of the same argument would not almost equally remove from the legislatures of the slave States themselves, the power of abolishing slavery—a position not unfrequently held, at the South.—The “incontestible” right of “moveable property” so long “sanctioned and sanctified” would present very grave claims, in the eyes of Statesmen who hold the views of Mr. Clay. And then, if the Constitution of the United States, “the supreme law of the land”—“guaranties” that same right of property, and may ride, rough shod, over the legislatures of the non-slaveholding States, and convert the whole North into the hunting ground of the slaveholder, to make that “guaranty” good, how will it be made to appear that the same “guaranty” does not extend over all the States in the Union, and forbid Southern legislatures to do what Northern legislatures may not? Suppose Maryland should pass an act abolishing slavery—Would not the same decision of the United States Court, that now prevents Pennsylvania from executing its act of abolition, prevent Maryland, likewise, from doing the same thing?

not based upon the principle of human *equality*, then it is based upon the principle of human *inequality*; and the degradation of the laboring masses, whom *color* can not identify, becomes, (as McDuffie hath it,) the corner stone of the entire structure. Those who contend for the "guaranties" and the "compromises of the Constitution" in favor of slavery, or its toleration, contend (whether they know it or not) for the pith and essence of the very doctrine, so offensive to many, when stated in the bold and forcible language of the Governor and Legislature of South Carolina.

#### ILLUSTRATIVE POLITICS OF THE COUNTRY—STATE ACTION.

The *meaning* of the question before us, is thus definitely fixed. On its *magnitude*, the reader may reflect at his leisure. On that topic we can not enlarge. Suffice it to suggest, that both the meaning and the magnitude of the question have their amplest illustrations in the past and passing political history of the country at large.

The legislative action of the slaveholding States looks distinctly and marches steadily to the *suppression of general liberty*, both within their own boundaries, and throughout the States of the Union.

In direct violation of their own State Constitutions, freedom of speech and of the press are proscribed, and in especial reference to all attempted promulgation of the doctrine of *human rights*!

IN LOUISIANA.—"If any person shall use any language from the *bar, bench, stage, or pulpit, or any other place*," [including halls of legislation] "or hold any conversation having a *TENDENCY* to promote discontent among *FREE* colored people, or insubordination among slaves, he may be imprisoned at hard labor, not less than three, nor more than twenty-one years, or he may suffer DEATH at the discretion of the Court."

Similar legislation obtains in Mississippi, North Carolina, Georgia, Virginia, &c. And these laws are not a dead letter. A member of Congress from Tennessee,\* in a letter to a Northern Editor, requested him to send him no papers of a certain description, (and consisting of a Review of a Report of Mr. Calhoun, in the United States Senate,) after he should have returned home to his constituents, because his receiving it through the mails, and reading it, at his family fire-side, would be a penitentiary offence.

Legislatures and Governors of slaveholding States have offered large rewards for the abduction of free citizens of the non-slaveholding States, and carrying them to the South, to be tried and punished *there*, for advocating human rights, in their *own States*, and no legislature of a non-slaveholding

\* Mr. Hunter.

State, has, in any way, noticed the insult!—Demands have been made on the Governors of non-slaveholding States, for the delivery of such offenders, and also on their legislatures, for penal enactments against free speech at home. In direct violation of the Constitution of the United States, free citizens of other States, sojourning in the slave States, are liable, if *colored*, to be seized, imprisoned, and sold into slavery—or (whether white or colored) if maintaining the “self-evident truths” of the Declaration of Independence, to be punished with *death*.

### ACTION OF THE FEDERAL GOVERNMENT.

The history of the action of the Federal Government, under all our successive Presidents, is strikingly illustrative of our position, that the Constitution must either be construed *against* slavery, or in its *favor*—against SLAVERY or against GENERAL FREEDOM.

To those who differ from me on this great question, I freely yield all the benefits of a concession of the fact that *hitherto*, the Constitution has been construed, in opposition to the views I maintain:—has been construed, in favor of the “compromise” and the “guaranty” of domestic slavery—has been thus construed by the Legislative, Executive, and Judicial authorities of the nation. But along with this concession, I shall insist that *the hitherto reigning construction*, as exemplified in the steady action of the Federal Government, in all its departments, is a construction that makes the *security of slavery*, and not the *security of liberty*, (the profession of the Preamble) the grand and paramount object of the National Government—is a construction that has led all the rival statesmen, administrations, and parties who have held it, to pursue steadily, amid all their otherwise conflicting measures and fluctuating policy, the aggrandizement of SLAVERY at the expense of LIBERTY; a construction that has led the Legislature, the Executive, and the Judiciary, to do the bidding of the SLAVE POWER, at whatever expense, or hazard, to the interests, the reputation, or the liberties of the People.

For the *facts* involved in this declaration, it were sufficient to cite the reader to—“*A View of the Action of the Federal Government, in behalf of Slavery*, by WILLIAM JAY,” and to those new developments of the same action, which, every year, and almost every month, are opening before our eyes, For a philosophical *solution* of those phenomena, it is enough to bear in mind the construction of the Federal Constitution

that looks in the *very same direction*, and to consider that those who *think* the Constitution to be in favor of slavery, will be very likely to *administer* it in favor of slavery, whatever may be said against the justice or the policy of their measures. If the common construction be the *correct* one, we have no remedy for the policy of the last half century, but a *different Constitution*, or an administration that will *disregard* the provisions of the existing one; a consideration to which our attention has not unfrequently been called by those who object to the *ballot box* as a means of removing slavery.

Admitting the common construction to be correct, *submission* or *revolution* are the only alternatives left to us; and *both* in turn are the probable, the almost inevitable lot of this People. The total loss of our liberties will come first, and the bloody recovery of them afterwards. Our destiny is before us, and we must float on, till it is fulfilled. Be it so, that we live under a National Government, at war with our dearest rights, a Government that taxes us for the acquisition of new territory, whereon to plant new batteries against our liberties—that moulds our naturalization laws in the manner best adapted to enslave native freemen—that shapes its ever fluctuating political economy, so as may best, for the time being, divert the avails of free labor from the laborer to the lordling—that employs the expensive diplomacy of the nation to its own infamy—that pretends to prohibit the African slave-trade, but winks at its successful prosecution—that plots against the liberties of South America and of Cuba, lest the infection of their liberty should enable the North American States to become truly free—that with indecent eagerness hastens to take by the hand, and hug to its bosom, nay, to incorporate with itself, the piratical despotism of Texas, at the cost of a war with Mexico; while it refuses, for forty years, at a sacrifice of well known public benefits, to recognize the independence of liberated Hayti—that authorizes slavery, the slave-trade, and the public sale of freemen, on the national hearth-stone, the home and the habitation of its own “exclusive” jurisdiction—that defines the condition of the American slave, by denying to him even the Asiatic right of petition, then declares that right forfeited by all the believers in inalienable human rights, and next to be held by the entire American people, only by Presidential permission—that by its law of 1793, for the arrest of alleged fugitives from slavery, annuls the trial by jury, and (by recent decision of its Supreme Court)



suspends the freedom or the chattelhood of its Supreme Judges themselves, *not* upon "due process of law," but upon the good pleasure of the slaveholder that may choose to claim them as slaves. *Be it so* that all this decisive and even fatal action *against general liberty*, is the action of our own National Government in which we have confided, to "*secure the blessings of liberty*"—*what then?* If the foundation principles of the Federal Government *require* all this to be done, as they undoubtedly do, if "the Constitution guaranties slavery"—or if they *permit* all this to be done, as they certainly do, if, by a "compromise they permit slavery"—then we have either to *get rid of* *SUCH a Federal Government*, or *relinquish our LIBERTIES*.

The wit of man may be challenged to devise another alternative. AMERICAN CONSTITUTIONAL LAW is either against slavery or in favor of it. *Both* at the same time or *neither*, it can not be. One or the other it *is*, and *must* be. If it tolerates *partial slavery*, it betrays and sacrifices *general freedom*;—for general freedom and partial slavery, can no longer, even dubiously, contest the supremacy. At this very moment, liberty trembles, and is ready to fall, if she may be said even now to exist. Under the present Constitution, is there any hope for her? We proceed to the discussion of **THAT QUESTION.**

## CHAPTER II.

### "STRICT CONSTRUCTION."

THE CONSTITUTION OF 1787-9. *Considered on the Principle of Strict Construction.*

### SECTION I.

#### THE CLAIMS OF SLAVERY.

Modern date of the supposed compromise—Remarkable process proving it—Strict construction defined—"Persons held to service and labor"—Apportionment of representatives and direct taxes—Migration and importation—Suppression of insurrection—Protection against domestic violence—Reserved rights of the States.

THE CLAIM—ITS CHRONOLOGY—ITS TEXTURE AND ITS FACTS.

Those who claim the "compromises" and the "guaranties" of the Constitution in support of slavery, do so on the ground of the provisions of the Constitution of the United States, formed by a Convention held for that purpose, in 1787, rat-

ified by the requisite proportion of the States, in 1787-8, and going into operation by the organization of the present Federal Government under it, in 1789. And this claim is seldom made out, from the provisions of that instrument itself, to the satisfaction of the claimants themselves, without lugging in, what is claimed to be the "implied understanding" of the supposed parties to the "compact"—an understanding, without which it is assumed, the assent of the slave States to the Constitution, could not have been gained.

But beyond the Constitution of 1787-9 and the attendant circumstances of its formation and adoption, the claimants are not accustomed to adventure. We have never heard the old Articles of Confederation cited in proof that any such compact, compromise, guaranty, or understanding, lay at the bottom of that arrangement, or even existed, at that date, in any form. The Declaration of Independence, the principles of Common Law, the inherent, matter-of-fact, unwritten Constitution, the organic frame-work and structure of free government, itself, of civil government, of any sort, have never, so far as we know, been attempted to be pressed into the service of the "peculiar institution" of the South. Nothing of this. Its Magna Charta of Runny Meade, its Genesis, so far as any *national* "compact"—"compromise"—"guaranty," or "understanding" are concerned, claims no earlier date than 1787-9.

It is a matter of some importance to note distinctly, this fact, as it shows to how narrow a chronological field, the claim in question, is confined. We became an independent *nation*—ONE NATION—"United States," in 1776, but no man claims any *national* compact, compromise, guaranty, or understanding, in favor of slavery, till 1787-9.

Another remarkable feature of this claim, is its inability to shape itself into any tolerable conformity with even its own *beau ideal*, or model of a seemingly or valid claim, by the process of a consistent and continued adherence to *any* recognized *principle of interpretation* by which, on all other questions, the meaning of this national document, in particular, or of any other similar instrument, is supposed to be ascertainable.

The claimants of these "compromises, compacts, guaranties, and understandings," never think of making out their claim by taking the well known rule of *strict construction*, and adhering to *that* rule, till the claim is logically proved. Nor, on the other hand, will they venture the experiment of taking the rival principle of interpretation according to the scope, design, leading object, or "*spirit of the Constitution*"

and making out their claim in harmonious accordance with *that* principle.

Instead of this, they never fail to present an argument made up of a motley patch-work, of which "strict construction" is claimed to have furnished *some* of the shreds, too tattered and thin indeed to hang together, or shut out the sunlight, without a plentiful lining of supposed *intentions*, yet carefully excluding the *grand* intention to "*secure liberty*" from coming into the interpretation, lest "that which is put in, to fill it up, take from the garment, and the rent be made worse." The argument commonly begins by insisting that the *minutest specifications* of the document shall be strictly and literally complied with, that not one iota or tittle of the detailed provisions of the Constitution shall be suffered to fail, though the known and openly avowed *end and object, the main purpose, and spirit* of the instrument, which gave it existence, should be nullified, should suffer defeat, and be relinquished. But in order to make out the needed construction of the *specific provision itself*, in the absence of the appropriate *words and phrases* to express the pretended "compact, compromise, and guaranty"—(yes!—in the presence of words positively *adverse* in their strict, literal import, to any expression of that kind,) resort is instantly had to *supposed intentions and "understandings"* to eke out the construction! The *declared* intent to "SECURE LIBERTY" shall have no power to help construe, to qualify, much less to set aside a technicality that can be read, by the literal import, to favor the "peculiar institution" of slavery. The *dead-letter* construction shall be held omnipotent here. But let it be shown that the "words of the bond" do not happen, exactly to specify, to describe, much less to *name* the very "peculiar" thing claimed to be guaranteed or compromised, behold! the dead-letter construction is repudiated, at once, and *supposed and conjectural* intentions to SECURE SLAVERY start up in its place, and become Constitutional Law!\*

#### A STANDING POINT, AND AN UMPIRE.

Against this backing and filling, this fluctuating, sliding process of constitutional interpretation, we record our protest, in the outset. The "peculiar" claim, with all the

\* When it is remembered that our most popular "*expounders of the Constitution*" have been accustomed to reason in this manner—That Presidents' Messages, Acts of Congress and Judicial decisions have been framed upon the fragile basis of such adroit and nimble gyrations, dignified with the name of expositions and palmed off upon a confiding people for Constitutional Law, we may safely infer that a *true* exposition of the Constitution, *whatever* it may be, must conflict with the now *prevailing* one.—Mr. Clay's Speech in the Senate, Pinckney's, Patton's and Calhoun's Reports, the Act of 1793, and the late decision of the Supreme Court, furnish instances in abundance of these deceptive manœuvres.

amiabilities and attractives attached to it, shall have its fair hearing, in Court. Certainly it shall. But, like all other claimants, it must define its position, and retain it, long enough to have its merits properly canvassed and adjudicated. It may choose the "*spirit of the Constitution*" as a rule of interpretation, or the rule of "*strict construction*," as it judges most prudent. But, having made its own selection, it must content itself to remain in the *same Court*, till the verdict is rendered. Even more than all this, we shall concede to it: for the truth can afford to be liberal. The claim of constitutional slavery shall have leave to urge its merits upon *both* the principles of interpretation, "*strict construction*," *first*, and "*spirit of the Constitution*" *afterwards*, not flying from the one to the other in the same plea, but trying its cause in both Courts, in succession. If the claim can be sustained, on the principle of "*strict construction*" alone, let it have the benefit of the verdict. But if it finds itself defeated on *that* ground *then* let it appeal to the "*spirit of the Constitution*" and see whether it can get the judgment reversed. But let it not pack its jury from both Courts, at the same trial. Nothing can be fairer than this challenge. On this basis we proceed. And as the claimants always *commence* their suit, at the Court of "*strict construction*" we will meet them there first. Let them not dodge, till "*strict construction*" shall have pronounced judgment. They may *then* file their appeal, if they shall have occasion.

### "PERSONS HELD TO SERVICE AND LABOR."

"No person held to service or labor in one State, under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor; but shall be delivered up on claim of the party to whom such service or labor may be due.—*Constitution, Art. IV. Section 2, Clause 3.*

Who, unacquainted with the facts that have taken place, with the past and daily passing history of this country, would ever have conceived that *these words* described the case of a fugitive slave, and required his delivery to the slaveholder? No one! Yet such is the *claim* set up, under this clause! But "*STRICT CONSTRUCTION*" allows no reference to past or passing events, for a key to the meaning of the document. It insists that the *words* of the instrument, the *literal words*, according to their commonly received and authorized *import*, and *nothing but* the words shall be allowed to tell us the meaning of the Constitution. It rules the Historian and the News Journalist out of the witness-box, and installs the Grammarian and the Lexicographer in their stead. To *their* testimony we will now attend.

Mr. Grammarian—Please to "*parse*" for the Court and



Jury, this third clause of the second section of the fourth article of the Constitution of the United States. And tell us by the rules of grammar, *who it is*, that "*shall be delivered up*," &c., under this clause.

Mr. Grammarian parses the sentence, and thus gravely responds—"According to the principles of grammar as taught by Murray, Smith, Kirkham, &c., it appears that—"*No person* held to service or labor in one State, under the laws thereof, escaping into another \* \* \* \* \* *shall be delivered up* on claim of the party to whom such service or labor may be due!"\*

Very satisfactory testimony, for the claimant, to be sure, but "*strict construction*" records the testimony of Mr. Grammarian, nevertheless! As counsel for the fugitive, I can afford to pass it over in my plea. I have evidence enough without it, but on the principles of "*strict construction*" I have a right to use it, if I please. *Why not?*—By bringing his suit into the Court of "*STRICT CONSTRUCTION*" the *claimant* insists that the Grammar and the Lexicon, the *dead-letter* of the record, however subversive of *equity*, or of the *meaning intended* by the framers of the instrument, shall govern the decision to be made. Why then, may I not *take him at his word*?

We will dismiss the Grammarian, and summon the Lexicographer to the stand. We wish to know the *meaning of the words* employed in this clause. The enslaver claims that the word "*person*" means *slave*. To test this claim we must know the meaning of the word "*person*" and the meaning of the word "*slave*" and see how they correspond. Noah Webster knows the meaning of words.—Mr. Webster—what is the meaning of the word "*person*?" Please to define it for the Court and Jury.

ANSWER.—"*Person*. An individual human being, consisting of body and *soul*. A man, woman, or child, *considered as opposed to THINGS*, or distinct from them."—*Webster's Dictionary*.

The testimony is noted down by the Court.—Mr. Webster retires.—"The peculiar" meaning of the word *slave*, as understood by those who "best understand" the very "peculiar" thing, must next be ascertained. No non-slaveholding Lexicographer (more than a non-slaveholding President) is to be trusted, here. A Yankee Dictionary may best define the meaning of the word "*person*." We must look further South for a full and clear definition of the word "*slave*."—

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\*This extraordinary *syntax* of the clause is noticed by Alvan Stewart, Esq. in his able argument, (vide "*Liberty Press*," June 4, 1844.)

The claimant has a witness in Court. Having come to claim a *slave*, he has brought with him the SLAVE CODE of the State from which the slave has "*escaped*," in order to inform the Court, precisely, what it is—"under the laws thereof" that is claimed. The Court directs the witness to be sworn. He is "a southern man with southern principles." In every thing relating to the "peculiar institution" he is erudite, authoritative, and "sound to the core." And moreover, though a southern man, he is a "*white man*," and without a tinge of African blood:—a competent witness of course. He must be heard with "peculiar" respect. The Sheriff and Constables will preserve "silence in Court," while he testifies—*Hush!*

"Slaves shall be deemed, sold, taken, reputed, and adjudged *in law*, to be CHATTELS PERSONAL, in the hands of their owners and possessors, and their executors, administrators and assigns, to all intents, constructions and purposes whatsoever.—*Law of South Carolina. 2 Brov. Dig. 229; Prince's Digest, 446, &c.*

"In case the *personal property* of a ward shall consist of specific ARTICLES, such as *slaves, working beasts, animals of any kind, stock, furniture, plates, books, and so forth, \* \* \* the Court may at any time, pass an order for the sale thereof.*"—*Act of Maryland, 1798, Chap. ci. &c.*

"Slaves shall always be considered and reputed *real estate.*"—*Louisiana, Act of January, 1806.*

"In Kentucky by the law of descents, they are considered *real estate*," but "are liable AS CHATTELS, to be sold by the master, at his pleasure, and may be taken in execution for the payment of his debts."—*2 Litt. and Sni. Digest.*

"The cardinal principle of slavery, that the slave is NOT to be ranked among *sentient beings*, but among THINGS, as an article of property, a chattel personal, obtains as undoubted law, in all of these States."—*Stroud, page 23.*

"It is plain that the dominion of the master is as unlimited as that which is tolerated by the laws of any civilized country, in relation to *brute animals, to quadrupeds*, to use the words of the civil law."—*Stroud, page 24.*

"Slaves can make *no contract*"—"A slave can not even contract matrimony."—*Stroud. page 61.*

"Two hundred years have sanctified negro slaves as *property*"—"That is property which the law makes property"—"The moment the incontestable fact is admitted that negro slaves are property, the law of moveable property attaches itself to them, and secures the right of carrying them from one State to another, where they are recognized as property."—*Speech of Henry Clay in the United States Senate, February 7, 1839.*

"The undersigned feels assured that it will be only necessary to refer Lord Palmerston to the provisions of the Constitution of the United States, and the laws of many of the States, to satisfy him of the existence of slavery, and that slaves are there regarded and protected as *property*, that by these laws there is in fact no distinction in principle between *property in persons and property in things*; and that the Government has more than once in the most solemn manner determined that slaves killed in the service of the United States, even in a state of war, were to be regarded as PROPERTY, and not as PERSONS; and the Government held responsible for their value."—*Mr. Stevenson to Lord Palmerston.*

This testimony too, is taken down by the Court, and "STRICT CONSTRUCTION" wipes its spectacles for the comparison. How reads the record? "We have it in evidence that the word '*person*' denotes a human being, a man, wo-

man, or child, considered as *opposed to* THINGS, and *distinct from them*. We have it in evidence, likewise, that the word 'slave' means a *chattel personal*, A THING, and not a sentient being. The testimony, then, is, that a 'person' can not be a *thing*; and that a 'slave' is a thing. The word 'person' in the Constitution, therefore, can not mean a slave. The claimant, by proving the being claimed, under this clause, to be a *slave*, has proved that he is *not a person*, and therefore can not be recovered under this clause." So reasons "STRICT CONSTRUCTION" and prepares to render judgment, without further waste of time. By joint request of both the parties, the Court consents, however, to a consideration of other matters, before pronouncing a decision.

Waiving the syntactical suicide of the clause under review, and passing from the definition of the words "person" and "slave," we take up the clause again, and read it over carefully, to discover, if we can, what impression it conveys, *as a whole*, of the condition of the being or "person" it describes. And the result is, first, that the condition of a slave is *not* therein described; second, that a certain condition, familiarly known among us, *is* described; and third, that the condition thus described, is the condition of one who by the description, *can not possibly be, or could not have been a slave*.

FIRST:—The *condition* of the slave is not described at all, in the clause. The appropriate English *word*, slave, universally used, especially in this country, to express that condition, is carefully *excluded*! How is this, if the design was to specify and to describe that "peculiar" condition? The phrase "held to service or labor" does not describe the legal condition of the slave. He is held as "*property, goods and chattels personal*;" but the law knows nothing, and has nothing to say or to prescribe, concerning his service or uselessness, concerning his labor or his idleness. The highest prized slaves, those commanding incomparably the largest sums of money in the market, are "held," bought and sold for other purposes than *labor*, purposes altogether incompatible *with it*! "Escaping" is an awkward word at best, to be applied to property, to a chattel, to a thing. Self locomotive property may be described as "straying," but *not* as "escaping" from its owner. "*Discharged from service or labor*" is a phrase never used to describe either the manumission of a slave, or his release from labor. The phrase supposes a *legal obligation* to labor which can not rest on the slave. The *law* requires no labor of him, whatever his *master* may do. There are sometimes



laws ostensibly *limiting* the amount of labor to be imposed upon slaves, as there are laws to prohibit the abusive treatment of cattle, but such laws never speak of their "*discharge*" from any portion of their labor. If such laws should go so far as to *forbid*, in certain specific cases, the putting of *any* labor upon aged, decrepit, or diseased slaves, the prohibition would be no emancipation, nor would it be called a "*discharge from labor*." "On *claim* of the party to whom such service or labor may be *due*."—Nothing can be legally *due* from a slave to his master: from "goods and chattels personal" to their "owners and possessors." "The slave can make no contract," and hence, nothing can be "*due*" from him. Master and slave can not be creditor and debtor. The *owner* has no legal "*claim*" upon his beast for labor. He can not "sue him at the law" for default of "*service*," nor can the law enforce the payment, or "*discharge*" from it. All such language is inapplicable to the condition of the slave. If the slave master has proved the estray "chattel" to be his chattel, his slave, then he has proved, not merely that he is no "*person*" but that nothing can be "*due*" from him, and that the clause of the Constitution now under review, does not apply to the case. If this clause of the Constitution "*does* apply to slaves, it *emancipates them*, for it proceeds upon the basis of *self ownership* in the person held to labor, and makes its provisions applicable only to a debtor in law, who, in order to *owe* the creditor, must own himself."\* And this appears from a consideration of the other points proposed.

SECOND:—The clause *does* describe a condition, familiarly known among us:—the condition of "*persons*," as "*distinct from things*"—persons who are "*held to service or labor under the laws of the State*" wherein they reside—persons "*from whom such service or labor may be due*" because they *may* have contracted to perform it, or because due to parents or guardians; persons whom the laws, on proper grounds, *may* "*discharge*" from the labor that may be wrongfully demanded of them, persons who may wish to "*escape*" from the obligations believed to be resting on them, persons whom the authorities of one State may appropriately "*deliver up on the claim of the party (in another State) to whom such service or labor may be due*." Such is the condition of the apprentice, the minor, the contractor of job work, the

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\* Tract No. 5, New England Anti-Slavery Tract Association, on "*Persons held to Service, Fugitive Slaves*," &c., by THEODORE D. WELD. If the reader wishes to see the argument exemplified, which is here briefly condensed, chiefly from that work, he should read it entire. On the "*strict construction*" principle, its positions will not be easily overturned.



debtor, who is held to service or labor by the terms of his own voluntary agreement.\*

THIRD:—The condition so accurately and minutely described in the clause, is a condition which can not, by any possibility, be predicable of the slave, who is held as property, who can make no contract, who can never become a creditor, and from whom nothing can be "*due*."

Another feature of this clause has been noticed by an eminent lawyer, (S. P. Chase, Esq. of Ohio,) as inconsistent with the claim set up under it, of a right to demand fugitive slaves. The provision of the Constitution in this clause, is, that no person shall be discharged from service and labor, *in consequence of any law of the State into which he may have escaped*. Now the fugitive slave *is not* discharged or liberated *in consequence of any such law*. He becomes free, the moment he leaves a slave State, in consequence of the fact that he "*leaves the municipal laws of that State behind him*." He is FREE by nature, and the endowment of the Creator. He is made a slave by law. The law which makes him a slave, can not follow him beyond the limits of its own territory. When he passes beyond those limits he resumes his freedom, simply because he has got beyond the *reach* of the force which suppressed it."—[Vide Cincinnati Herald, Nov. 6, 1844.]

Should it be claimed, as perhaps it may be, that in a disputed or doubtful case, the principle of "strict construction" does not preclude a reference to the history of the times, the general understanding, &c. &c., to gather light upon the meaning of a legal instrument, the answer is at hand. No references of the kind proposed, *on the principle of "strict construction"* (for in *that Court* we are litigating *now*) "can avail to set aside the *plain terms* in which a clause of the Constitution is expressed." Aside from the faulty *syntax* of the clause first noticed, no *terms* could more plainly express the condition of the "persons" specified and described; a condition incompatible with that of the slave.\* "Strict construction" will not permit the supposition that the Constitution *means* a slave, when its framers, whatever their intentions might be, took such special care *not to say* that they meant it, but actually said *the contrary*. "Strict construction" maintains that even if "a statute, or a clause of a

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\* This view of the subject is moreover confirmed and additional force is given to the idea that the peculiar condition of the *slave* is not described in the clause, when we remember that no allusion is made to the *color* commonly supposed to be the badge of the slave, and of those that may be claimed as such. This remark can be neutralized only by pleading that the common construction of the clause, embodied in the Act of 1793, and in the decision of the Supreme Court, *does* contemplate the enslavement of *whites*.

constitution, may in certain cases, be construed *beyond* the letter," it "must never be construed *against* the letter." "Strict construction" affirms that "a construction repugnant to the express words of the law can not hold—and further, that where the words are unambiguous and explicit, the construction must not only *not conflict* with it, but must be *based upon it*, and still further, that Courts are not at liberty to carry out what they may *suppose* to be the design of the law, to put upon its provisions a construction repugnant to its words, even though the consequence of not doing it should be *defeat* to the object of the law." "Strict construction" holds that "with the *policy* of a clause in the Constitution, Judges have nothing to do." "Strict construction" rules that the Court has no authority "to *presume* the intentions of the framers, but to *collect* them from the words, taken in their *ordinary import*;" and "strict construction" cites the authorities that follow:

"Lord Tenterton, the late distinguished Chief Justice of the Court of King's Bench, in a recent judgment, says:—'Our decision may, perhaps, in this case, operate to *defeat the object* of the statute, but it is better to abide by this consequence than to put upon it a construction not warranted by the act, in order to give effect to what we may *suppose* to be the intentions of the legislature.'

"So, in the case of 'Notley vs. Buck,' 8 B. and C. 164, that eminent Judge says:—'The *words* may probably go beyond the intent' " "they do, it rests with the legislature to make an alteration. The duty of the Court is only to construe and give effect to the provision.' "

Imbedded in principles and precedents like these, what can "STRICT CONSTRUCTION" do, but decide *against* the claimant of a fugitive slave, under the third clause of the second section of the fourth article of the Constitution of the United States?

If it still be pleaded, in arrest of judgment, that "the clause is fairly open to two interpretations, and that therefore resort must be had to history, to contemporaneous exposition," &c. &c., the plea is inadmissible *here*, because it is in effect a motion to take the case *out* of the Court of "strict construction" and try it at that *other* Court to which the claimant will be allowed an appeal, if defeated here. But inasmuch as *other* important questions touching the "peculiar institution" and its claims on other portions of the Constitution are about to be litigated in this Court, the judgment in this particular case will be suspended, for further deliberation.

## APPORTIONMENT OF REPRESENTATIVES AND DIRECT TAXES.

"Representatives and direct taxes shall be apportioned among the several States which may be included within this Union, according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three-fifths of all other persons," &c.—*U. S. Const. Art. I. Sect. 2. Clause 3.*

And who, among the *uninitiated*, could have divined that either a "compromise" or a "guaranty" of slavery, was bound up in *these* words? Nothing is *said* about *slavery* or *slaves*. And since nothing is *said*, how can "strict construction" admit the plea that something was *intended*? And that that something was (what is not mentioned in the Constitution) a "guaranty" or a "compromise" in its favor?

Allowing, one moment, for the sake of the argument, that the word "persons" *did* mean "slaves," and that the States holding few or no slaves consented to an arrangement by which three-fifths of the slaves were to be counted, in the apportionment of representatives and direct taxes—What then? How is the "compromise" or the "guaranty" of *slavery* made out? "Strict construction" can infer nothing of the kind. It can only see a *bargain* about the payment of *money*, and the right to choose a given number of *representatives*—a barter trade, in which the Yankee States intended to benefit their *pockets* at the expense of a portion of their *political power*—and got the worst of the bargain, as other Esaus have done before them. Further than this, "strict construction" could not go, granting all the premises claimed.

But "STRICT CONSTRUCTION" will never consent to the premises. It will by no means admit, that when the Constitution speaks of "persons"—of human beings, in distinction from *things*, it means "goods and chattels personal, to all intents, constructions and purposes whatsoever,"—of "THINGS" in distinction from "sentient beings." We pass to another topic.

## "MIGRATION OR IMPORTATION."

"The migration or importation of such persons as any of the States now existing shall think proper to admit, shall not be prohibited by Congress, prior to the year one thousand eight hundred and eight, but a tax or duty may be imposed on such importation, not exceeding ten dollars for each person."—*U. S. Const. Art. I. Sect. 9, Clause 1.*

What "compromise" or "guaranty" of "the peculiar institution" have we, here? For the sake of the argument, we will, in the first place, suppose, that "the migration or importation of such persons," &c. means "the migration and importation of" *slaves*. What does "STRICT CONSTRUCC-

TION" see in this clause of the Constitution, then?—It notices,

1. That it applies only to the States "*now existing*," that is, when the Constitution was formed, adopted or put into actual operation. Kentucky, Tennessee, Louisiana, Alabama, Mississippi, Arkansas, Missouri, a majority of the present slaveholding States, as well as Florida, are not included, and never were, and never can be, in the provisions of *this* clause; and whatever of "compromise" or of "guaranty" the "peculiar institution" in the six *other* slave States may claim, or may have claimed, under it, the seven States above mentioned never have had, and never can have, any part or lot in the matter. Congress may, at any time, do, in respect to *those States* and to this *Territory* whatever it might have done, had the clause never have been written. To *them* it brings neither "guaranty" or "compromise." It notices,

2. That the year one thousand eight hundred and eight, having gone by, thirty-seven years ago, whatever of compromise" or of "guaranty" the clause may have given to some of the original States, for a time, the period of its operation has long since elapsed, and the present generation has no more to do with it, than with the edicts of Cæsar Augustus.\* It notices,

3. That the clause, even when in force, in respect to the original States, did not, on the principle of "strict construction" restrain Congress from "establishing justice" and "securing the blessings of liberty" by the general abolition of slavery. On *that* subject, the clause under consideration, had nothing to say, and accordingly *said* nothing.

So that if it could be true that the word "*persons*" here used, meant *slaves*, it could not be true on the principles of "strict construction" that the system of slavery derives any "guaranty" from it, or its existence "compromised" or permitted by it.

But back of all this lies the self-evident truth that "*persons*" are human beings, with "souls" as well as bodies—and that consequently, they are not "chattels personal" and "*things*." The dictionaries tell us this. "Strict construction" decides according to *the meaning of the words*—and the word "*persons*" can not mean "*slaves*." "Strict construc-

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\*If the claimant, by his own construction and his own showing, has his "bond" satisfied, to the very letter—if he has had his cake, and eat it up, a generation ago, for what honest object does he come into Court, whining about his "bond" and "guaranty" and "compromise," now? Was the "compromise" all on one side? Is the twenty years' respite never to run out? Constitutional expositors who urge "compromises" and "guaranties" after this fashion, must either be very dull of apprehension themselves, or presume largely on the stupidity of others.



tion" accordingly reads this clause as applicable to the ingress or egress of "human beings with natural rights"—"a man, woman, or child, considered as opposed to *things* or *distinct from* them." These may be English, French, Dutch, Irish, Malay, Hottentot, Hindoo, or African. But they can not be *slaves*.

Before dismissing this topic, it may be worth while to notice a remarkable inconsistency of those who hold the opposite doctrine. If it be true, as they insist, that the migration and importation of *slaves* is described in this clause, and that prior to the year 1808, Congress had no power to prohibit their ingress, by migration or importation, into "any of the States," &c., that should "think proper to admit" them—then it follows that the famous law of 1793, for the seizure and return of fugitive slaves, migrating into States willing to receive them, was palpably unconstitutional and premature.\* Not less so, I may add, upon the construction that makes "persons" to mean human beings, in distinction from things, from chattels, and slaves.

#### SUPPRESSION OF INSURRECTION.

"Congress shall have power" "to provide for calling forth the militia to execute the laws of the Union, suppress insurrections and repel invasions."—*United States Constitution, Article I, Section 8, Clause 14.*

It is claimed that by this clause, the National Government is bound to assist in quelling an outbreak of refractory slaves, whenever they may refuse to work, or whenever they may forcibly resist their masters.

What says a "*strict construction*" of the Constitution to this claim?

"Congress shall *have power* to" do a specific thing. Does that mean that Congress *shall* do that specific thing? Or does it only mean that Congress shall *act according to its discretion*, in the matter?

"Congress shall *have power*" (under this same section) "to lay and collect taxes, duties, imposts"—"to borrow money on the credit of the United States"—"to establish uniform laws on the subject of bankruptcies throughout the United States"—"to declare war, grant letters of marque and reprisal"—"to raise and support armies"—"to provide for, and maintain a navy," &c. &c. &c. Does this language mean that Congress *shall* do all or any of the things specified? Or that it shall do this on demand of any particular portion of the country, irrespective of its own best judgment

\*See address of Alvan Stewart, Esq. And here we have another illustration of the fidelity and acumen with which the Constitution has been expounded, hitherto, by its official guardians!

of the "*justice*" of the measure, and the interests of the *country at large*? To ask questions like these, is to answer them.

"To execute the *laws of the Union*." But do "the laws of the Union" enforce the labor of slaves, or legalize the power of the masters? By what clause of the Constitution are such powers conferred?

"To suppress *insurrections* and repel invasions." And what is an insurrection? "Strict construction" inquires, at every step, into the *meaning of the words*, (in their ordinary import) which the Constitution employs. We must call Noah Webster again, to the stand.

"*Insurrection*.—A rising *against civil or political authority*; the open and active opposition of a number of persons to the *execution of law*, in a City or State. It is equivalent to *sedition*, except that *sedition* expresses a less extensive rising of citizens. It differs from *rebellion*, for the latter expresses a revolt, or attempt to overthrow the government, to establish a different one, or to place the country under another jurisdiction. It differs from *mutiny*, as it respects the *civil or political government*, whereas a *mutiny* is open opposition to law in the army or navy."—*Webster's Dictionary*.

An "*Insurgent*:"—Is "A PERSON who rises in opposition to *civil or political authority*; one who openly and actively resists the *execution of laws*. An *insurgent* differs from a *rebel*. The *insurgent* opposes the execution of a particular *law or laws*, the *rebel* attempts to overthrow or change the government, or he revolts, and attempts to place the country under another jurisdiction. All *rebels* are *insurgents*, but all *insurgents* are not *rebels*."—*Ib*.

Admitting, for the sake of the argument (what is not true) that a slave can be a "person" in the eye of the law, it is evident that the refusal of a slave to obey his overseer or owner—and that his forcible resistance to their persons or to their authority can not amount to an *insurrection*—does not constitute him an *insurgent*. The authority of the master over the slave is neither "*civil*" nor "*political authority*." The slaveholder is not, by virtue of his slaveholding, a *legislator* or a *magistrate*. Neither the Constitution of the United States nor that of any one of the slave States, directly confers legislative or executive power upon the individual *slaveholder*, as such. When a slave refuses to obey a command of his master, he does not refuse to *obey a law*, either of the State or the Nation. When he resists the enforcement of his master's demand, such resistance is not "opposition to the *execution of law*." If a thousand or a million of slaves should do the same thing, at the same time, it would not alter the nature of the act. In doing it, they would resist only their masters. They would not resist "the execution of law"—they would not rise against "*civil or political authority*." And consequently they would be guilty of no *insurrection*. The masters, in such a case, might bring their

several actions against the slaves at Justice's Courts, for "assault and battery," if the slaves could be accounted in law, "*persons*." But since this is not the case, the thing is never done.\*

It is often claimed, on behalf of the "domestic institution of slavery," that it is part and parcel of the family relation, or at any rate, so nearly resembles it, that it may be judged of by the same rules. The slave is compared with the hired servant, the apprentice, the minor child, and sometimes, even with the wife. And the authority of the slaveholder and overseer is called "paternal" and is represented as similar to the authority of the "boss" workman, the employer, the master of the apprentice, the guardian, the parent, the husband.

Let this clause of the Constitution be read in the light of such representations. Here are hired servants that decline to do the bidding of their employers. Here are bound apprentices that will neither make shoes, nor tan leather, nor ply the needle, nor wield the broad-axe, nor swing the sledge-hammer. Here are minor children that throw down their hoes in the corn field, or their scythes in the meadow. Here are house-wives that demur against the drudgeries of "domestic"-cooking, that will neither bake or boil pot, will neither churn, wash, nor iron; at least without the stipulated compensation of new gowns, caps, and ribbons, beyond the convenience or good pleasure of their husbands. High words ensue, and words ripen into blows. The contagion spreads from family to family, from village to village, from State to State—confusion reigns, industry is paralyzed, broom-sticks are brandished, and broken ribs and bloody noses complete the scene. Now for the remedy. "Congress shall have power, to provide for calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions!"

If irony be detected in the picture, it is only because there was absurdity in the thing that presented itself for the portrait.

On the principle of "strict construction" this clause of the Constitution, so far from making it *obligatory* on Congress to employ the military force of the Nation to enforce the labor of slaves, or to interfere in the "domestic" quar-

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\*I do not forget that the enactments of the slave States provide for the punishment of the slaves as *criminals*. But I contend that those enactments are in flat contradiction of the code that holds them as *goods and chattels personal*. If the one is valid law, the other can not be, and any impartial Court would so decide. The moment a slave is *legally* indicted for crime, that moment he is legally declared a person, and not a chattel; in other words he is *legally emancipated*.

rels of servants and their masters by "calling forth the militia," *does not even invest Congress with the power to do any such thing.*

Those who hold the opposite doctrine, are nevertheless wont to proclaim loudly, the very *limited* authority of the Federal Government, its incompetency to intermeddle with local concerns; and they magnify greatly the untouched independency, and reserved powers of the separate States. All this is urged, in special reference to the existence of slavery. But in this very "peculiar domestic" concern of keeping the slaves quiet, their theory is reversed! The Federal power is every thing, and State power is unable to punish murder, nay, even to restrain assault and battery, without *the national arm*. A kitchen quarrel between maid and mistress, an altercation between a slave-driver and his gang, a street brawl, blows between a night-walker and a patrol, a chase after a runaway chambermaid or ostler, attendance on a religious meeting after nine o'clock or after sunset, or by Sabbath sunlight, without a written pass; the preaching of a sable colored laborer to his fellows, the keeping of a school to teach the alphabet, the unseasonable visit of a lover to his mistress, of a husband to his wife, or of a mother to her offspring; the refusal to labor without wages, or to do the unlawful bidding of the debauchee or the drunkard—all these, or either one of them, are gravely held, by constitutional lawyers, to be fit occasions for calling out the *national militia*—all these, or either one of them, if persisted in, and by a sufficient number of persons to embarrass or endanger the slaveholders, are held to be equivalent to an *insurrection*!

Let it be noted that the power of Congress to *suppress* "insurrection" carries along with it, the power of Congress to *define* "insurrection"—to say in what an insurrection consists, and in what it does *not* consist. And "strict construction" insists that Congress shall frame this definition in accordance with the "*ordinary import of the words*"—in accordance with the testimony of the accredited lexicographers of the language. And where shall we find better authority than that of Noah Webster? Or a respectable definition at variance with the one quoted from him?

And when Congress shall have defined the word "*insurrection*" in direct reference to proposed action in the case of refractory slaves, it will have dipped pretty deeply into the "delicate question" of the legality of American Slavery!

Before dismissing entirely the definition of the word



"*insurrection*," employed in the Constitution, it may be well to see how nearly we can approximate towards the discovery of a definition furnished by the Constitution itself. The Constitution is particular, in its definition of the word "*treason*," and Noah Webster may help us to compare the words "*treason*" and "*insurrection*."

"*Treason against the United States shall consist only in levying war against them, or in adhering to their enemies, giving them aid and comfort. No person shall be convicted of treason, unless on the testimony of two witnesses to the same overt act, or on confession in open Court.*"—*United States Constitution, Article III, Section 3, Clause 1.*

"*Treason, is the highest crime, of a civil nature, of which a man can be guilty. In general, it is the offence of attempting to overthrow the government of the State to which the offender owes allegiance, or, of betraying the State into the hands of a foreign power.*"—*Webster's Dictionary.*

If there be a difference between the Dictionary and the Constitution, it lies in this; that the Constitution limits the "general" meaning of the Dictionary, and restricts it to the particular overt acts specified—levying war—adhering to enemies;—whereas the more "general" definition might include *other* acts of the same nature and design. By the same rule, a constitutional definition of "*insurrection*"—if a definition had been furnished, would have *restricted* rather than *enlarged*, the definition of the Dictionary, confining "*insurrection*" to the specific act of *bearing arms* against the civil or political authority, and the execution of the laws.

The difference pointed out by Webster between *insurrection* and *rebellion*, is substantially the same as is noticed in comparing his definitions of "*insurrection*" and of "*treason*." *Insurrection* is the less comprehensive act. It may consist in an *armed resistance* against the execution of a *particular law* of the State, without directly attempting the more comprehensive enterprise of *overturning the State itself*, and establishing *another government* over it.

The nearest *literal adhesion* to the words of the Constitution that the case admits of, conducts us, therefore, to the same definition (substantially) of the word *insurrection*, that is furnished by Webster, only more carefully restricted, less liable to be extended to a variety of *indefinite acts*.

In no view we can take, will "*strict construction*" permit us to apply the clause of the Constitution now under review, to the case of *refractory slaves*:—not even if slaves were to be considered and dealt with, as "*persons*."

But this is not the case.—As slaves are "*deemed, sold, taken, reputed and adjudged, in law, to be CHATTELS PERSONAL*"—"to all intents, constructions and purposes whatsoever"—it is manifestly beyond the power of irony or

satire to overpaint the picture of absurdity and ridiculousness, wrapped up in the claim, under this clause, of a constitutional pledge, guaranty, or even *authority* or *warrant*, for the employment of the *national militia* to keep the slaves in subjection, to enforce their *labor*, or to *protect their owners against them*.

"That is property which the law makes property." And "Congress shall have power" to "*suppress insurrections*" of "property" against its owners!—or "against the execution of law!" "Specific articles, such as slaves, working beasts, animals of any kind" decline performing the tasks their owners desire of them. They frisk out of their traces, run back, refuse to draw, throw up their heels; they crush the feet of their Balaam-eyed riders against a wall, they crouch, lie down and refuse to rise again. And behold!—"Congress shall have power to" provide for the emergency by "*calling forth the militia, to execute the laws of the Union!*" "Specific articles" of property, in conspiracy with "Real Estate," aspire to become *owners* of "specific articles" and holders of "real estate" themselves. "Goods and Chattels" demur against being held as goods and chattels any longer, desirous of possessing "goods and chattels" in their turn. *Constitutional Law*, putting on its wig, and mounting its woolsack, decides it to be a manifest case of "*insurrection*" against the State! The contest between "Goods and Chattels" and their "owners and possessors" waxes warm and comes to blows. "Goods and Chattels" are likely to become an over-match for their owners. "Working animals" meditate deeds of blood and slaughter among their possessors. Horns and heels are already bringing muskets and cutlasses into requisition. "Congress shall have power" to protect their owners against their property—to "*suppress insurrections and repel invasions!*" To wage a war of extermination against "Goods and Chattels" and "Real Estate" for the benefit of their "owners and possessors, and their heirs, executors, administrators and assigns!" Such is a specimen of the jargon resulting from the construction of the Constitution against which we contend.

#### PROTECTION AGAINST DOMESTIC VIOLENCE.

But another section of the Constitution, or rather a mutilated fragment of it, is quoted to the same effect. The entire section reads thus:

"The United States shall guaranty to every State in the Union, a republican form of government, and shall protect each of them from invasion; and on application of the legislature, or of the executive, (when the legislature can not be convened,) against domestic violence."

The first part of this section will receive particular attention, in another place. The provision looks in quite another direction than the federal guaranty of slavery; a circumstance sufficiently obvious to every one; and accordingly we never find it quoted in its proper connection, or quoted at all, by those who plead the constitutional compromises and guaranties we are now considering.

The United States shall, in certain contingencies specified, protect each of the States from invasion, and from *domestic violence*. What is the "domestic violence" intended? The connection leads us to conceive of that violence as naturally resulting from attempts to subvert "a republican form of government" and establish other usages in their stead. At all events, it is evident that the section must not be construed into a right or obligation, on the part of the United States, to lend its aid and authority to the *support of anti-republican* laws and usages in the States. For that would be to quote the provision in opposition to its own express terms. And consequently the provision can not be construed as authorizing or requiring the United States to assist in supporting slavery in any of the States, for *slavery* is known to be the most *anti-republican* thing that can be conceived. Slavery and republicanism are opposites, and the common use of language places the terms in opposition to each other. And "strict construction" never permits a departure from the plain meaning of the words.

This view is further confirmed by a consideration of the ordinary use and proper meaning of the terms "domestic violence."

"*Domestic*. Belonging to the house or home; pertaining to one's place of residence and to the family. \* \* \* \* \* Pertaining to a nation, considered as a family, or to one's own country; intestine, and not foreign."—*Webster's Dictionary*.

"*Violence*. 1. Physical force, strength of action or motion. 2. Moral force; vehemence. 3. Outrage, unjust force, crimes of all kinds. 4. Eagerness, vehemence. 5. Injury, infringement. 6. Injury, hurt. 7. Ravishment, rape. To do violence to, or on; to attack, to murder. To do violence to, to outrage, to force, to injure."—*Id.*

"Domestic violence" therefore in the *bad* senses of the word violence, (which the Constitution evidently intended,) expresses *nothing like* the refusal of a slave to labor, or his demanding, asserting or even defending his natural and inalienable rights—his resisting the outrages and aggressions of others, upon those rights. On the other hand, the definition of "domestic violence" *does* very accurately describe the forcible chattel enslavement of men, women and children; the treatment that slaves inevitably receive, under the slave system, the outrages, injuries, and crimes, notori-

ously and constantly perpetrated upon them ; and especially and emphatically does it describe the systematic scourging, confinement, fettering, hunting with blood-hounds, shooting down with rifles by individuals, and by volunteer bands of unauthorized and armed men, of fugitive or refractory laborers—thus filling the “house, the home, the place of residence”—“the nation considered as a family”—“one’s own country” with the worst species of “violence”—with “intestine” disorder and commotion. The graphic descriptions of Mr. Jefferson correspond with these observations. He speaks of slavery as an act of *violence* when he affirms that the liberties of the enslaved “are not to be VIOLATED, but with the Divine wrath”—and he characterizes this violence as a “DOMESTIC” violence, in both the senses we have quoted from Webster. “The parent storms, the child looks on, catches the lineaments of wrath, puts on the same airs, in the circle of smaller slaves, gives loose to the worst of passions, and thus nursed, educated, and daily trained in tyranny, can not but be stamped by it with odious peculiarities.” Thus the “house, the home, the place of residence” is filled with “domestic violence.” And not only so—“the nation considered as a family,” our “own country” according to Mr. Jefferson, is filled with the same domestic violence. “With what execration should the statesman be loaded, who, *permitting* one-half the citizens to trample on the rights of the other, transforms those into despots, and these into enemies, destroys the morals of the one part, and the *amor patriæ* of the other.”

No other “*domestic violence*” in this country, can bear a comparison with *slavery*. “*Strict construction*” will never consent that the Constitution shall be understood to sanction the national enforcement of “DOMESTIC SLAVERY” under plea of protection, *against* “DOMESTIC VIOLENCE!”

Further than this, we insist not, at present. In another place we shall inquire whether the Constitution does not require the *suppression*, by the United States, of this “domestic violence.”

#### RESERVED RIGHTS OF THE STATES.

The right of the States to tolerate and sustain slavery is not unfrequently grounded on the *reserved* rights of the States, in conformity with the Constitution of the United States; viz :

“The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.”—*Amendments, Article 10.*



"The powers"—What powers? All possible and impossible, conceivable and inconceivable powers?—The power to make black white, and white black?—to reduce immortal souls to chattels?—to transform lawlessness into law? to construct a rectangular triangle whose three angles shall not be equal to two right angles?

To hear some men talk about the "reserved rights of the States" one would think that those rights included the right of omnipotence; or rather, the right to do what omnipotence itself can not do.

"Are reserved." Notice the words. "*Reserved*," not originated:—"Reserved," not "guarantied."

"Strict construction" will insist upon a rigid adherence to the *words*, in their obvious and customary meaning, as applicable to the matter in hand.

"Power." "The right of governing, or actual government"—"legal authority, warrant"—"right, privilege."—*Webster's Dictionary*.

The "reserved RIGHTS of the States" can not include reserved WRONGS!—The powers "reserved to the States or to the people" are *rightful* powers—*rightful authority*.

It is *not* provided, nor affirmed, in this article of amendments to the Constitution that the *States* or the people *may* do, whatever the Congress and the United States *may not* do! There are many, very many things, that *neither* people, States, Congress, *nor* United States, may lawfully, or *constitutionally* do. As for example, neither People, nor State Governments, nor Congress, nor United States, may lawfully or constitutionally, select every tenth man in a township, or tenth man in a hundred, throughout the country, and confiscate their property, *pro bono publico*, and then colonize them to Liberia, to "get rid of them." They may not string up to the yard arm, every Irish emigrant that reaches the country, because he is not a "Native American." They may not seize upon Joseph Story, or Henry Clay, or Martin Van Buren, and drag them to unpaid labor in the rice swamps of Carolina, without jury trial, without charge of a crime. They may not seize upon every man with a hair lip or with red hair, or with black skin and crisped hair, and do the same thing with them. *Nor may they suffer it to be done by others*. And though it should be proved that among "the powers delegated to the United States by the Constitution," and "prohibited by it to the States" no mention whatever is made of the power or authority to do or not to do the things that have been described—it would not follow from the 10th article of Amendments to the Constitution, that either "the States or the People" have a right to perpetrate or to tolerate

such crimes. It would not follow that their participancy in, or toleration, or legislative sanction of such crimes was CONSTITUTIONAL. *It would not follow that Congress, and the United States possess no rightful and constitutional authority to suppress such criminal practices.* Thus far, at least, a "strict construction" of the article by the proper meaning of the words may conduct us. But this is not all.

It is not to be *taken for granted*, without scrutiny, (as is commonly done) that the power of abolishing slavery is *not* delegated to the United States, by the Constitution. Nor is it to be thus taken for granted that the practice and legislative sanction of slavery is *not*, by the National Constitution, prohibited to the States. If the opposite of the commonly received doctrine, on these points, should be found true, the tenth article of the amendments to the Constitution of the United States will, *itself*, have to be "reserved to the States respectively, or to the People" for some worthier, some more dignified and republican use than that of attesting the constitutional right of baby stealing, and woman whipping, and selling boys and girls at auction, along with tallow candles, by the pound!

## SECTION II.

### THE CLAIMS OF LIBERTY.

The Preamble—Union, justice, domestic tranquility, common defence, general welfare, *liberty*—Powers of Congress—Power over commerce—A "Republican form of Government," (definitions of a republic by various authorities)—Security of liberty, "due process of law"—Slavery in the Territories and Federal District—The Constitution and the District of Columbia—Restrictions on State power—Inhibition of bills of attainder, laws impairing the obligation of contracts, titles of nobility, (aristocracies, feudalism) making war, troops in time of peace—Immunities of citizens in each State—The summing up—Shylock and his pound of flesh—The Conclusion.

Having patiently examined those portions of the Constitution that are claimed in support of SLAVERY, we may now be permitted to inquire what portions of the document, if any, may be regarded as friendly to LIBERTY. It will be remembered that we are still litigating our cause in the Court of "STRICT CONSTRUCTION"—where a final disposal of the claims of *slavery* upon the Constitution is deferred, until the claims of *liberty* can be first examined. At the Court of "strict construction" it is a well understood axiom that a document in favor of *slavery* can not be in favor of *liberty*; and that a document in favor of *liberty* can not be in favor

of *slavery*: that to establish the *one* claim is to overthrow the *other*. "Strict construction" studies, and sticks to the dictionary; it goes by the *meaning of the words*, and hence the axiom that has been quoted, since the words "liberty" and "slavery" are opposite terms.

### THE PREAMBLE.

"We, the people of the United States, in order to form a more perfect union, establish JUSTICE, ensure *domestic tranquility*, provide for the *common defence*, promote the *general welfare*, and secure the *blessings of LIBERTY* to ourselves and our *posterity*, do ordain and establish this Constitution for the United States of America."

"Strict construction" always holds the *object and design* of a decent and respectable document to be what it *declares itself* to be. At least it does this, until it can be proved, by the laws of "strict construction" to declare an *untruth*, and then it no longer *remains* respectable or trustworthy. Nothing further need or can be done with it in that case, but to proclaim its true character! While the Constitution of 1787-9 claims either *respect or authority*, it must be construed to mean and intend what it *says* it means and intends.

And what *does* it say it means and intends? What meaning and intent do the words it employs, (in their natural and ordinary acceptation,) convey? The Constitution *says* it means the following things:—

1. "To form a more *perfect union*." Then it does *not* mean to "permit one-half the citizens to trample on the rights of the other—to transform those into despots, and these into enemies"—as is done by *slavery*.

2. "To *establish justice*." Then it does *not* mean to "guaranty" or tolerate *injustice*. It means to abolish and overthrow it, and there can be no greater injustice than *slavery*.

3. "To *ensure domestic tranquility*." Then it does *not* mean to guaranty or permit "*domestic violence*." It means to forbid and restrain it. There is no "*domestic violence*" equal to *slavery*. And nothing like slavery conflicts with "*domestic tranquility*."

4. "To provide for the *common defence*." Then it does *not* mean to permit a common warfare upon the *defenceless*. It does not mean to defend the *aggressors*. It does not mean to make "compromise" with a system that renders a "*common defence*" against foreign invasion impracticable, by "destroying the morals of the one part, and the *amor patriæ* of the other." It means of course to abolish *slavery*, since, by no other method, can the "*common defence*" be provided for, or made possible.



5. "To promote the *general welfare*." Then it can not mean to promote or "guaranty" the known and admitted *enemy* of the "general welfare"—*slavery*. It can not mean to lend its aid in crushing the laboring, the producing class, in half the States of the Republic; as it would do, if it make a compromise with *slavery*.

6. "To secure the blessings of LIBERTY to ourselves, and our *posterity*." Then it means to overthrow the deadly antagonist of liberty, to wit, SLAVERY.

These results are as certain as it is that the meaning or intent of any document is to be ascertained by its own ample, clear, express, unambiguous, and distinct *language*. In other words, they are as certain as it is that "strict construction" or any other sort of construction, can determine the meaning of the Constitution. "Strict construction" must pronounce judgment in favor of liberty and against slavery, or decide that the Court has no jurisdiction—that "strict construction" has no right to a seat on the wool-sack.

#### POWERS OF CONGRESS.

But has the Constitution clothed Congress with the authority and *power* to carry into execution the *meaning and intent* of the Constitution itself? Let us see.

"The Congress shall have power"—"to make all laws which shall be necessary and proper, for carrying into execution the foregoing powers, and all other powers, vested by this Constitution in the Government of the United States, or in any department or officer thereof."—Art. I, Sect. 8, Clause 17.

And so the Constitution itself gives an explicit and direct affirmative answer, to the question. "Strict construction" has nothing to do but to record and re-echo it.

But suppose the legislation of Congress in accordance with the Constitution of the United States, should conflict with State legislation, the question may be asked—"Could such State legislation, in that case, be legally and constitutionally set aside, as null and void? Could the Federal Courts so decide, and render such State legislation of non-effect? And must the State authorities acquiesce?" There is a provision in the Constitution containing a direct and explicit answer to *this* question likewise.

"This Constitution and the laws of the United States which shall be made in pursuance thereof, and all treaties which shall be made under the authority of the United States, shall be THE SUPREME LAW OF THE LAND, and the judges in every State shall be bound thereby, ANY THING in the CONSTITUTION or LAWS OF ANY STATE TO THE CONTRARY NOTWITHSTANDING."

Whatever, therefore, in the action of any of the States, conflicts with the Constitution of the United States; what-



ever conflicts with the laws of Congress, made in *accordance* with, and “in *pursuance*” of, the grand objects of that Constitution, is unconstitutional, illegal, null, and void. It can not have the *authority of law*.

Just as certain, therefore, as it is that the Constitution of the United States was “ordained” to “*establish JUSTICE*” “and *SECURE the blessings of LIBERTY to ourselves and our POSTERITY*”—just as certain as it is that the slave codes and enactments of the slave States establish *injustice*, and render the liberties of ourselves and our posterity *insecure*—just so certain as it is that the Constitution has conferred on Congress “power to make all laws which shall be necessary and proper for carrying into execution” the express and declared *objects* of the Constitution itself; just so certain is it (on the principles of “*strict construction*”) that a law of Congress, abolishing slavery in the States where it exists, would be the “*Supreme law of the land*,” and the judges “in every State” would “be bound thereby, *any thing* in the Constitution or laws of *any State* to the contrary notwithstanding.” The plain, direct and express *words* of the Constitution of the United States, *literally taken*, say precisely this thing; and there is no escape from it, without appealing FROM the *words* of the Constitution to the supposed *intentions* of the framers—and this is exactly what “*STRICT CONSTRUCTION*” can not permit.

But this, it may be said, is all “*in the general*.” And some persons appear unable to distinguish between *generalities* and *nonentities*. Their vision is microscopic. The more ample the dimensions of the object, the less capable they are of perceiving it. Had the Constitution specified some very minute matter in which either “union,” “justice,” “domestic tranquility,” the “common defence,” “the general welfare,” or “the blessings of liberty,” were involved, the meaning would have been palpable enough. Perhaps even as large an object as chattel slavery itself, might have been seen, had it but been singled out and separated from all similar things, of the same class, and called by its *technical name*. (Such men can not see that *slavery* is forbidden in the Bible, though they understand that *extortion*, and using service *without wages* are there forbidden!) But *Constitutions* are not commonly adapted or intended to be substitutes for the *statute book*. And because the Constitution employs terms which describe and include slavery along with similar usages, it is difficult to make these persons see that it describes or means *any thing at all*! Their “strict construction” would be equivalent to *no construction*, since

they allow nothing to be contained in the document, that is not expressed by a technical term. 'Twere well nigh useless to reason with such. From *generalities* we will pass to such *particulars* as we may be able to glean.

### POWER OVER COMMERCE.

"The Congress shall have power" "*to regulate commerce with foreign nations, and among the several States, and with the Indian tribes.*"—U. S. Const. Art. I, Sect. 8, Clause 3.

Slaves in law, are "goods and chattels personal." As such they are articles of commerce. And it is held and pleaded by the slaveholder that, "*that is property which the law declares to be property.*" The whole question, then, of the chattelhood and commerce in slaves, is in the hands of the *law making power*, wherever that power is lodged. Nobody pretends that slaves could be held and sold as property *without* specific enactment of the legislative authorities. The right to hold and sell slaves as chattels is not claimed to be a natural, original, and inherent right. It rests solely on the *statute*.

Well, then, the Constitution of the United States as above quoted, provides that this whole power "*to regulate commerce,*" is to "declare what *is* property," and what is *not* property, to say what shall be or shall not be bought and sold, and if so, under what restrictions, is vested in the *Congress of the United States*, and being thus vested, it is *denied* to the legislatures of the several States, *so far forth*, as "commerce with foreign nations, and among the several States, and with the Indian tribes," is concerned. *In all this field of commerce*, "*that is property which the law*" of CONGRESS "*declares to be property*"—if the commercial law maxims of the slave code are to be our guide—that is, if slaves are to be deemed chattels at all!

Thus far, in the Court of "strict construction," all is "plain sailing" enough. How all this is to operate, or what bearing it is to have upon the tenure upon which slave property is held in certain States of this Union, "strict construction" has no occasion now to inquire. A little interlocutory, lobby conversation, however, on this point, may be here indulged.

[If Henry Clay has taken the right view of the subject (and it is not easy to see what other view any claimant of slave property can take) it is manifest that, *in the exercise of their constitutional power*, under this clause, the Congress of the United States may strike a deep, if not a fatal blow at the very root of all slave property at the South. For, as an

argument against such congressional action, Mr. Clay insists that the *chattelship of the slave can not be separated from the right to carry him from State to State as an article of merchandise*. The same principle would apply to the foreign slave-trade (though the immediate and direct practical operation of its abolition might be less serious,) that is to say, the power that was competent to the abolition of the *slave-trade*, domestic or foreign, was competent likewise to the abolition of *slavery itself*, since both rested on the *same basis*, and the *one* was involved in the *other*, and depended upon it. On some such considerations, doubtless, was founded the general belief and assumption, at the time the present Constitution was adopted, that the abolition of the foreign slave-trade was to involve the abolition of *slavery*. The now ascertained impracticability of putting down the slave-trade, on the high seas, and in our own commercial cities, in the presence of slavery, is only another illustration of Mr. Clay's doctrine that the right of *slave chattelship* and the right of carrying on the *slave-trade* are one and indivisible! These are his words:—

“The moment the incontestible fact is admitted that negro slaves are property, the law of movable property attaches itself to them, and secures the right of carrying them from one State to another, where they are recognized as property.”—*Speech in the Senate, February 7, 1839.*

In view of the constitutional provision now under consideration, as a data of reasoning, yet retaining Mr. Clay's identification of *chattelship* with *commerce*, we may paraphrase and improve his logical process on this wise.

‘The moment the incontestible fact is admitted, that the Congress of the United States are by express provision of the Constitution, clothed with the power of “regulating commerce among foreign nations, and among the several States, and with the Indian tribes”—that moment the constitutional power of control over slave property in the several States, attaches itself to the Congress, and secures to that body the right to ‘declare what is property,’ and what, *as being property*, may lawfully be carried from one State to another.’

If there be any flaw in this logic, it must lie in its adoption of Mr. Clay's doctrine, that the *chattelship* and the *commerce* of slaves can not be separated from each other.\*]

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\* How well the strict letter of the Constitution agrees with Mr. Clay's identification of chattelship with commerce; how the Constitution, or how Mr. Clay's doctrine would bear upon the free trade and tariff question—or which view ought to prevail, we are not now concerned to inquire. We have only to construe the Constitution by its own words.



But all this estimate of consequences, is mere lobby talk, with which the Court of "strict construction" has nothing, on the present occasion, to do. The simple question before the Court, is the power of Congress over the foreign and domestic slave *traffic*, and that question resolves itself into the question whether slaves are in the eye of law, subjects of *commerce* at all. If they are, that commerce, with all other commerce, within the limits described, is under congressional control. So "strict construction" must decide, without regard to the bearing the decision may have on the tenure of slave property in general.

An objection has been raised, on the ground that the power to "*regulate* commerce" is not the power to *annihilate* commerce. The objection is groundless for two reasons.

In the first place, the prohibition of traffic in a particular commodity, and between certain specified localities or countries, is *not* an annihilation of commerce, but only a regulation of it. The making of the traffic in certain commodities contraband, does not annihilate commerce. The tariff of 1816, designed and operating to exclude the cotton fabrics of India, was not an annihilation of commerce.

But in the second place it has been decided by the Federal Courts that the power to regulate commerce *does* carry along with it the power to destroy, to prohibit, to annihilate commerce. By the long embargo, under Mr. Jefferson's administration, not only foreign commerce, but coast-wise commerce between the States and even the fisheries, were expressly prohibited and substantially destroyed. And when some merchants who had been prosecuted for a breach of the embargo law, defended themselves by contesting the constitutionality of that law, and on this same plea that "the power to regulate commerce is not the power to annihilate commerce," no plea nor evidence was offered, on the part of the Government, to disprove the alleged fact, that commerce was annihilated by the embargo. The plea in Court against the defendants, was, that the power to regulate commerce, being an indefinite and unrestricted power, carried, of necessity, along with it the discretionary power, to prohibit all commerce. The plea was offered as a "strict construction" plea. The Court adopted it as such, declaring that they must be bound by the *words* and not by the *consequences* of the Constitution. Judgment was accordingly given against the defendants, and the embargo law was sustained.

To the uninitiated, it may appear somewhat remarkable that the same persons who cite the clause concerning "migration and importation" in illustration of the "compromises



of the Constitution" in regard to slavery, (inasmuch as the power of prohibiting the slave-trade was withheld as they say, from Congress, for twenty years)—should nevertheless contradict their own conclusions, by denying that now, after the twenty years are expired, the Congress possesses any such power! It was under *their own* construction of the Constitution, that the slave-trade was first tolerated, against the then prevailing sentiment of the country, till 1808, and under the same construction, it was then abolished to a certain extent; and now that a further exercise of the *same* power is invoked, to complete the prohibition commenced in 1808, the constitutional power is denied on the ground that the clause does not touch slavery, at all! But "commerce with foreign nations" and commerce "among\* the several States" are placed on precisely the same footing, in the clause before us, under which the foreign slave-trade was abolished. In this we have another specimen of the trustworthiness of the constitutional expositions, on the subject of slavery, that have *hitherto prevailed*!

We dismiss this topic by inviting attention to a dilemma, of which the opponents of our doctrine may select which horn they prefer.

If the slave States persist in holding the slaves as "goods and chattels personal" the law of "goods and chattels personal" attaches itself to them, Constitutional Law and the laws of Congress not excepted, securing to Congress, under this clause of the Constitution, the right of exercising the same powers over *slave* property and *slave* commerce, as over any *other* property and commerce. But the moment the slave States determine and affirm that slaves are *not* "goods and chattels personal—to all intents, constructions, and purposes whatsoever"—*that moment* every slave in those States is emancipated, and becomes a freeman—his chattelship disappears and he becomes a *man* in law as well as in fact.

#### "A REPUBLICAN FORM OF GOVERNMENT."

We have incidentally adverted, already to the Constitutional provision that "*the United States shall guaranty† to*

\* "Among the several States." Does this mean the same as *between* "the several States?" The latter phrase would better indicate exclusively a commerce between the citizens of *different* States. "*Among*" would seem to comprehend likewise a traffic "*among*" the citizens of the *same* States, and this would authorize Congress to prohibit the buying and selling of slaves entirely even "*among*" the residents of the same neighborhood or village. Noah Webster tells us that "*among*" means "*mixed or mingled with*"—as well as "*conjoined or associated with, or making a part of the number*"—whereas "*between*" may "*denote intermediate space, without regard to distance.*" Were we pushed for an exposition, or desirous of pushing the principle of "strict construction" we might make something of this distinction. But let it pass.

† It would seem that the framers of the Constitution were not unacquainted

*every State in the Union a republican form of government.*" —Art. 4, Sect. 4. It is time to consider, more directly, this provision. What shall we understand by the word "*guaranty*?"

"*Guaranty*. 1. To warrant; to make true; to undertake or engage that another person shall perform what he has stipulated. 2. To undertake to secure to another, at all events. 3. To indemnify: to save harmless." —*Webster's Dictionary*.

The United States, then, will "*warrant*," will "*make sure*," "*to every State in this Union*," and to all the inhabitants thereof, "*a republican form of government*." The United States "*undertake or engage*" to see to it that *other persons besides* those directly wielding the *Federal Government*, that the persons charged with the affairs of the *State Governments* "*shall perform what they have stipulated*," by maintaining "*a republican form of government*." The United States "*undertake to secure, AT ALL EVENTS*," "*to every State in the Union*" the government described. The United States will "*indemnify*," will "*save harmless*" from all attempts in any *direction*, or from any *quarter*, to subvert such a government. Whatever is incompatible with a republican government, in *any* of "*the States of this Union*," "*the United States*" have bound themselves to *abolish and suppress*.

What then, are we to understand by "*a republican form of government*?"

"*Republic*. 1. A commonwealth; a State in which the exercise of the sovereign power is lodged in representatives elected by the people. 2. Common interest; the public." (*obs.*) &c.—*Webster's Dictionary*.

"*Republican*. 1. Pertaining to a Republic; consisting of a commonwealth. 2. Consonant to the principles of a republic."—*ib.*

If slavery be contrary "*to the principles of a republic*," then slavery is anti-republican, and of course the United States have guaranteed, to every State in the Union, an exemption from slavery. But the well "*known principles of a republic*" are—that "*all men are created equal, and are endowed by their Creator with certain inalienable rights, among which are life, liberty and the pursuit of happiness*." Any government not in accordance with these "*principles*" is not a republican government.

"The sovereign power" of a State is *not* "*lodged in representatives elected by THE PEOPLE*," in States where one-fourth, one-third, or one-half of "*the people*" are held in slavery. There is no "*common interest*," no "*commonwealth*" in States where "*one-half of the citizens*" are "*per-*

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with the English word "*guaranty*," and that when they meant to "*guaranty*" any thing, they could distinctly and unequivocally say so.

mitted" by legislative enactments, "to trample on the rights of the other"—to "transform those into despots, and these into enemies."

We are not going beyond the *strict letter* of the Constitution, the *meaning of the words* it employs, when we say this. Our construction is not only *not beyond* the literal import of the words, but *is based directly upon them*. "Strict construction" can make nothing more and nothing less *out* of them.

But in seeking to ascertain the *literal meaning of the words*, we are not confined to the dictionaries in common use, we may appeal to any other good *literary authority* for the meaning of words just as the compilers of dictionaries cite standard writers. If the Constitution or any other legal instrument uses scientific terms, we must go to the masters of science for the meaning of them. If it uses Common Law terms or phrases, we must go to the volumes of Common Law to find out the meaning of them. If it employs words in common use among statesmen, civilians, and moralists, we must go to eminent statesmen, civilians, and moralists, for a definition of the terms. And those of the same age and nation, other things being equal, will be the best authority for ascertaining the ordinary import of the words. This reference to the current literature of a people or of their language, to their public documents and archives (such as our National Declaration of Independence,) or to approved writers and eminent statesmen, to ascertain the ordinary import of the *language* or the *words*, of a written document, like the Constitution, is not only permitted but required by the law of "*strict construction*," which confines us to the meaning of the words, and *therefore* sets us at work to *ascertain*, by all the means in our power, their *precise import*. Such a reference is *not* to be confounded with an appeal to (perhaps) the *same* literature, statesmen, and writers, for the purpose of ascertaining, (otherwise than by the meaning of their words,) the *intentions*, and *designs*, the *motives* and the *policy* of the framers of the Constitution, or instrument, under examination. With these explanations, we cite some further definitions of "a republican form of government."

We have so far anticipated this topic as to cite the definition contained in the Declaration of Independence. To the same point we might also quote the "Bill of Rights," "Declarations," Preambles, Constitutions, &c. &c., of the different States, which form so prominent a feature of the political literature of the age and nation in which our Fed-

eral Constitution was drafted. But we forbear. They are too voluminous for convenience—too well known and too unequivocal for dispute. They all look to the establishment of republican government, and they all lay the foundation of such government in the doctrine that all men are born equal, and possess an inalienable right to liberty. They make the very pith and essence of a republican government to consist in the protection and security of those rights. The political literature of America knows of no other republicanism than that which recognizes and professedly secures such rights.

To quote to proper advantage, Mr. JEFFERSON's definition of a republican government, would be to transcribe a great part of his writings. A brief epitome of it we have in his Declaration of Independence. We have it likewise in such propositions as the following :

“1. The true *foundation* of REPUBLICAN GOVERNMENT is the equal rights of EVERY CITIZEN, in his *person* and *property*, and in their *management*.”

This is equivalent to a flat denial that any government can be a “republican government” that is not FOUNDED upon “the equal rights of EVERY CITIZEN,” &c. And in his Notes on Virginia, the same writer has described the legislation of SLAVE STATES as “permitting *one* half the *citizens* to trample upon the rights of the *other*”—thus explicitly recognizing the slaves as *citizens*. And the government thus described, deserves, he says, to be “*loaded with execration*,” instead of being cherished as a true republican government. So says likewise the Constitution of the United States, and “guaranties to every State in this Union” an exemption from the curse of such an execrable government. “The United States” have therefore “guarantied to every State in this Union” a government FOUNDED—BASED upon “the equal rights of EVERY CITIZEN, in his *person*, and *property*, and in their *management*.” Can human language express a more full and unequivocal guaranty than this, of the abolition by “the United States,” of all the slavery in “every State in this Union?”

But let us examine the connected propositions of Mr. Jefferson, that his full definition of a “republican government” may be distinctly before us. To the above statement he adds :

“2. The *rightful power* of all legislation is to declare and enforce only our *natural rights* and *duties*, and to *take none of them from us*. No man has a *natural right* to commit aggression on the equal rights of another ; and this is ALL from which the law ought to restrain him. Every man



is under a natural duty of contributing to the necessities of society, and this is all the law should enforce on him. When the laws have declared and enforced all this, they have fulfilled their functions."

"3. The idea is quite unfounded that on entering into society, we *give up any natural right*."

The full bearing of all this upon the legality and validity of slave laws, any where and every where, we do not discuss now. In another connection we may, if we have room, advert to it. What we have to do here is to find out, in the light of our current literature and lexicography, the meaning of the phrase, "a republican form of government." And the reader will see that *Mr. Jefferson's* definition does not cover the government of a *slave State*.

We will next introduce *Mr. MADISON* to the stand, and ask *him* to define for us the phrase, "*republican form of government*." Very fortunately for us, *Mr. Madison* has left us his definition in "black and white," published under his own eye—a definition framed *for the very purpose* of telling the People of the United States what is a republican government, while the question of adopting the Constitution was pending their decision. At that precise period it was that *Mr. Madison*, *Mr. Jay*, and *Mr. Hamilton* undertook, jointly, the task of defending and *explaining* the Federal Constitution, in a series of essays, which were afterwards collected together, and published in a volume entitled, "*The Federalist*," &c.\* From an article of *Mr. Madison* in this book, we will now present an extract. And *Mr. Madison* was a prominent member of the Convention by whom the Constitution had been framed and submitted to the States.

"Number XXXIX," of the *Federalist*, "by *James Madison*," contains the following:

"*The first question that offers itself is, whether the general form and aspect of the government be strictly republican? It is evident that no other form would be reconcilable with the genius of the people of America; with the fundamental principles of the Revolution; or with that honorable determination which animates every votary of FREEDOM, to rest all our political experiments on the capacity of MANKIND for SELF-GOVERNMENT. If the plan of the Convention therefore, be found to depart from the republican character, its advocates must abandon it, as no longer defensible.*"

The reader will please notice, in this paragraph, (1) that it is a "*republican form of government*" that *Mr. Madison* is intent on describing: (2) that he *identifies* such a form of government with, "*the fundamental principles of the revolution*"—its self-evident truths, and inalienable human rights, (3) with "*freedom*;" and (4) with a recognition of

\* "*The Federalist*, on the New Constitution, written in the year 1788, by *Mr. Hamilton*, *Mr. Madison*, and *Mr. Jay*," &c. &c.

“the capacity of *mankind* for self-government.” But Mr. Madison proceeds :

“What then, are the distinctive characters of the *republican form*?—Were an answer to this question to be sought, not by recurring to *principles*, but in the application of the term by political writers, to the constitutions of different States, no satisfactory one would ever be found.—Holland, in which no particle of the supreme authority is derived from the people, has passed almost universally under the denomination of a republic. The same title has been bestowed on Venice, where absolute power over the great body of the people is exercised, in almost an absolute manner, by a small body of hereditary nobles. Poland, which is a mixture of aristocracy and of monarchy, in their worst forms, has been dignified with the same appellation. The government of England, which has one republican branch only, combined with a hereditary aristocracy and monarchy, has, with equal impropriety, been frequently placed on the list of republics. These examples, which are nearly as dissimilar to each other as to a genuine republic, show the extreme inaccuracy with which the term has been used in political disquisitions.”

The *American* and *modern* meaning of the word “*republican*,” according to Mr. Madison, is widely different from the meaning which some *European* writers of *former times* had put upon it—a consideration which is of importance to be kept in mind. Mr. Madison proceeds still further :

“If we resort for a criterion, to the different *principles* on which different forms of government are established, we may define a republic to be, or at least may bestow that name on, a government which derives all its powers directly or indirectly from *the great body of the people*, and is administered by persons holding their offices during pleasure, for a limited period, or during good behavior. It is *essential* to such a government, that it be derived from *the great body of the society*, not from *an inconsiderable proportion*, OR, *a favored class of it*; otherwise a handful of tyrannical nobles, *exercising their oppressions by a delegation of their powers*, might aspire to the rank of republicans, and claim for their government the honorable title of republic. It is *sufficient* for such a government that the persons administering it be appointed, either directly or indirectly, BY THE PEOPLE, and that they hold their appointments by either of the tenures just specified; *otherwise*, every government in the United States, as well as every other popular government that has been or can be well organized or well executed, *would be degraded from the republican character*.”

Very evidently a *slave* State can not be a *republic*, according to the definition of MR. MADISON. It is *essential* to a republican form of government, says Mr. Madison, that its power “be derived from the great body of the society; NOT from an inconsiderable proportion; OR” from “A FAVORED CLASS OF it.” The disjunctive “*or*” expresses distinctly, Mr. Madison’s denial that a State can have “a republican form of government” whose power is derived from “*a favored class*,” although that favored class may be even a majority of the inhabitants. The holding of the power by “A FAVORED CLASS” is inconsistent with the “republican character” of the government. In every slave State, the slaveholders, or, if you please, the whites, are “*a favored class*” who hold all the political power; “*exercis-*

ing their oppressions by a delegation of their powers." In *some* of the States the whites are a minority, in *all* of them the slaveholders, who substantially wield the State governments, are. And in the aggregate of all the slave States, these "tyrannical nobles" are comparatively, a "handful," being less, by estimation, than two hundred and fifty thousand, in the thirteen slave States, among the seven millions of inhabitants of those States, and in the presence of nearly three millions of slaves. So that the actual *slaveholders*, the only really "*favoured class*" in the slave States, and on whose behalf this "oligarchy" is maintained, are less than one tenth as numerous as the slaves to whom they deny all the essential rights of humanity, as well as political power! If neither Holland, nor England, nor Poland, nor Venice, may be called republics—because of their aristocracies and their monarchies, what shall be said of our slave States?

Will it be said that Mr. Madison was treating of *Federal* and not of the *State* governments? That he had no reference to the *slave* States? or to *slavery*? That he did not *mean* to deny the republican character of the slave States? That he would have resisted any such application of his doctrine?

Some of these statements would first need to be proved. But granting, for the argument's sake, that they were all true—what then? It would only make the testimony of Mr. Madison the more available for our purpose. For it would be giving us the testimony of an *opponent*, to the verity of our *premises*! We were not citing Mr. Madison's *opinions* about our *conclusions*! No. Nor about the *intentions* of the framers of the Constitution. We only sought from him a *definition of the phrase* "*republican form of government*." That definition he has furnished. And all impartial men will see that, whatever he *intended*, or whether he intended any thing at all, in relation to this subject, his definition *does as a matter of fact*, exclude slave States from the list of republics. Incidental testimony, or testimony against the interests or the opinions of the witness, is the most unimpeachable testimony that can be produced. If Mr. Madison's opinions of the subject of slavery and its remedy *were* altogether coincident with our own, or if Mr. Jefferson's were, we should be charged with citing the testimony of "fanatics," the testimony of our own partisans and leaders!

Mr. Madison *was* indeed treating of the Federal and not of the State governments. He gave a definition of a "re-

publican form of government" nevertheless. It was the *meaning of the words* we were seeking after. That meaning is ascertained. And until it can be made to appear that the phrase "a republican form of government," means a government in *favor of liberty* when applied to the *Federal Government*, but means a government in *favor of slavery*, and AGAINST liberty, when applied to the government of "*every State in this Union*," it will remain demonstrably certain that, by the provisions of the Constitution of 1787-9, "the United States shall guaranty to every State in this Union" *the abolition and the absence of slavery*. There can be no protest filed against this decision, that shall not amount to an appeal from the Court of "strict construction" to that of some other tribunal.

And yet we have other witnesses to produce. Two separate CONGRESSES, the one immediately *before*, and the other immediately *after* the Federal Constitution was adopted, deliberately and almost unanimously abolished and forever prohibited slavery, in the *only territory*, (as distinguished from States) then belonging to the national domain. And they saw fit, in this solemn act, to state with precision the *ground* on which this national legislation was based. And what was it? They affirmed that they did so, for the purpose of "*extending the fundamental principles of civil and religious liberty which FORM THE BASIS wherever these REPUBLICS, their laws, and their CONSTITUTIONS are erected.*"

That is, they abolished and forever prohibited *slavery* in the North West Territory, soon to be formed into new "*States of this Union*" because they wished to "extend" prospectively to those States, "*a republican form of Government*" which they could not possess, *if slavery* remained. We stop not to insist now, on the very explicit declaration here embodied, that SLAVERY is repugnant to the CONSTITUTIONS of the American republics, the *States*. That item may fill a niche in another part of our argument, if we should not, in the plenitude of our resources, lose sight of it. All we urge here, is simply the *definition* furnished by the two Congresses, just before and after the adoption of the Federal Constitution, of the meaning of the *terms* it employs when it speaks of a *republican government*. We claim that this, along with other items of our then current political literature, decides the *ordinary import* of the phrase, and decides it *against* the "republican character" of a slave State.

In attestation of the justness of this claim, we cite another witness: General HEATH, of Massachusetts. In the Debates



in the Massachusetts Convention of 1798, on the question of adopting the Constitution of the United States, Gen. Heath having adverted to the subject of slavery, and to the then recent act of Congress prohibiting it forever in the North West Territory, said, "By their ordinance, Congress has declared that the new States shall be REPUBLICAN STATES, and have NO SLAVERY!"\*—*Deb. Mass. Conv.* p. 147.

Thus evident and certain is it that American political literature, along with the American Dictionary, so defines "a republican form of government" as to exclude slave States from coming within the definition.

And American writers, or those of the more modern date, are not alone in these views of a republic. The celebrated Montesquieu, one of the most distinguished of French authors, and who died more than twenty years before the Declaration of American Independence, in his "*Esprit des Loix*," (Spirit of Laws) first published in 1748, translated and republished in England and America, and now for eighty years a standard work in both hemispheres, is scarcely less explicit on this subject.

"In *democracies*, where they are all upon an equality, and in *aristocracies* where the laws ought to use their utmost endeavors to procure as great an equality as the nature of the government will permit, SLAVERY IS CONTRARY TO THE SPIRIT OF THE CONSTITUTION, &c."—*Spirit of Laws*, Vol. I., Book XV., Chap. I.

Not only in *democracies*, then, but even in aristocracies, (which we in America do not deign to reckon among republics,) this profound writer on the Spirit of the Laws regards SLAVERY to be UNCONSTITUTIONAL, from the *very nature of the government*! Yet Montesquieu was educated, and wrote, under the old French Monarchy! Do our American definitions of "a republican form of government" fall *below* those of a Montesquieu? Does the definition, in America, now, include *less* of the ideas of liberty, equality, and inalienable human rights, than it did in Europe a century ago? We are only inquiring after the *meaning of words*. But important *changes* in the meaning of words may sometimes reveal to us important changes in something else. The meaning of "a republican form of government" in this country, in 1789, is sufficiently ascertained. On the present and rising generation it may depend, whether it shall long retain *any meaning at all*!

We have some further definitions to adduce.

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\* Without a direct violation of this ordinance, no fugitive slave can be arrested in any of the States formed out of the North-Western Territory. This circumstance has been noticed by JAMES G. BIRNEY and others.

Can that be a *republican* government which is not even a *free* government? Some limited monarchies—that of England, for example—are sometimes claimed to be *free* governments, by those who would not venture to call them *republics*. This question settled, we have another. Can that be a *free* government that does not secure and maintain *freedom of speech* and of the *press*? This latter question, let the slave State of Virginia herself answer.

“The *freedom of the press* is one of the great bulwarks of liberty, and *can never be restrained*, but by a DESPOTIC GOVERNMENT,”

All State Governments, then, that *do* restrain the freedom of the press, are “despotic governments,” and not republics. So says the State of Virginia. But what slave State does not restrain freedom of the press? If there are some of them in which such freedom is not formally prohibited, in which of them is it maintained and preserved?

The statutes of Louisiana, Tennessee, and other slave States, *including Virginia herself*, as adverted to, in our first chapter, furnish sufficient answers to these questions. And yet the *Constitutions* of Delaware, Maryland, North Carolina, South Carolina, Georgia, Louisiana, Kentucky, Tennessee, Mississippi, Alabama, and Missouri, (all of them slave States) to say nothing of the *Constitutions* of the non-slaveholding States, are full and explicit in affirming the inviolable rights of free speech and a free press. *By their own definition* of a republican government, *these* States therefore, or such of them as do not maintain this freedom, are not republican States, and the United States have guaranteed, and warranted, on their behalf, that they shall become so.

We can afford but little room, here, for further quotations from the highly authoritative *political literature* of our country by which the *meaning* of the phrase “republican form of government” is fixed and *defined*. But there is one specimen now before us, so full and entire, that we must give it a place.

“We the People, hereby ordain and establish this Constitution of Government, for the State of *Delaware*. Through Divine goodness ALL MEN have by nature the rights of worshipping and serving their Creator according to the dictates of their consciences, of *enjoying and defending life and LIBERTY*; of ACQUIRING and protecting reputation and PROPERTY, and in general of obtaining objects suitable to their condition, without injury to one another, and as these rights are *essential* to their welfare, for the due exercise thereof, power is *inherent* in them;—and THEREFORE, ALL JUST AUTHORITY, *in the political institutions of society*, is derived from the PEOPLE, and established with their CONSENT, to advance their happiness, and they may, to this end, as circumstances require, from time to time, alter their Constitution of Government.”

The heaven-derived right of ALL men to enjoy religious

and civil LIBERTY, to acquire and hold PROPERTY, are here explicitly made the very FOUNDATION of those "political institutions" whose "authority" is "derived from the people"—that is to say—"republican forms of government." The connecting word "*therefore*" expresses this idea, and makes the paragraph as a whole, equivalent to a declaration that WITHOUT the security of civil and religious liberty to "*all men*," including their right to acquire and possess property, such "political institutions" as "republican forms of government" could not exist.

By a less rigid definition and "strict construction" of a "republican form of government," it might be found difficult to establish the claims of our American slave States, or many of them, to the character of republics. No one, certainly, can question the correctness of that part of Mr. Madison's definition, which says, "it is *essential*\* to such a government that it be derived from the *great body* of the society, not from an *inconsiderable proportion* of it." A State, then, governed by a *minority* can not be a *republic*. But some of the slave States, and it is believed, most of them, are governed by minorities. In South Carolina, Mississippi, and Louisiana, the slaves themselves, (exclusive of the free people of color,) outnumber the white population. When it is remembered that no colored person can have any share in the government, though that class are numerous in some of the States, and also that very few of the still more numerous class of non-slaveholding whites, (who, in those States, are, for the most part, very degraded,) can participate in the franchise or hold office, it must be evident that, in most of the slave States, the government is in the hands of the minority, and that this minority are slaveholders.

The whole number of slaveholders in the United States has been estimated at not more than two hundred and fifty thousand. Yet these are distributed in an aggregate population of above *seven millions*, in the thirteen slave States, the Territory of Florida, and Federal District, according to the census of 1840.† This exhibits a proportion of *one to twenty-eight*. Yet the slaveholders govern. Their propor-

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\* This *italicising* is Mr. Madison's in the paragraph before quoted from the *Federalist*.

† The census of 1840 exhibits the following. *South Carolina*. White persons, 259,084. Free colored persons, 8,276. Slaves, 327,038. *Mississippi*. Free white persons, 179,074. Free colored persons, 1,369. Slaves, 195,211. *Louisiana*. White persons, 158,457. Free colored persons, 25,502. Slaves, 168,452. Suppose now, in these States, the slaves and free colored persons should form a constitution of a "republican form of government," elect officers, and demand the Federal guaranty. What must Congress do? "Strict construction" remembers that the Constitution says nothing about SLAVES, and nothing about

tion to the whole adult male population, we can only conjecture or estimate; but very evidently they must be a small minority. The Constitutions of many of these States, making a landed estate a qualification of voters, and especially of legislative and executive officers, have virtually secured the *supremacy of slaveholders*. "Fifty acres of land" is requisite, in several States, to make a voter. A Governor of South Carolina, must be worth £1,500 sterling, and a Senator £300 "of a settled freehold estate," and a Representative "a settled freehold estate of five hundred acres of land and *ten negroes*, or a real estate of £150," &c., &c. In Tennessee, the Governor must own 500 acres of land, and a Senator 200.

Whether, therefore, we define a republic by its principles, its usages, its protection of human rights, or its sovereignty of the People, or of a majority of them, the slave States can not be called *republics*.

We dismiss this topic with a single inquiry. If, by the words and the phraseology of this clause, the United States have *not* guarantied to every State in this Union an exemption from the extremest possible departure from a republican government; have *not* warranted and secured them from a *government that shall chattelize its citizens*, "transforming some into despots and others into enemies," permitting "one-half its citizens to trample on the rights of the other,"—then we demand *what it is* that these words and phrases *do* signify? And what "form of government" the *United States* may not permit to be established and maintained in the different *States*, without a breach of the guaranty?

#### SECURITY OF LIBERTY:—"DUE PROCESS OF LAW."

The Constitution prepared by the Convention, in 1787, among its declared and leading objects, as set forth in its first sentence, had distinctly enunciated its intent to "secure the blessings of liberty to ourselves, and our posterity." Yet the People, it seems, were desirous of some more specific declaration of the *manner* in which this security was to be *extended* to them. So says the record of those times.

"The Conventions of a number of the States, having, at the time of their adopting the Constitution, expressed a desire, in order to prevent misconstruction or abuse of its powers, that further declaratory and restrictive clauses should be added. Congress, at the session begun and held in the city of New York, on Wednesday, the 4th of March, 1789, proposed to the legislatures of the several States, twelve amendments, ten of which only were adopted."—*Federalist*, page 580.

Among these AMENDMENTS was the one from which we



extract the following. We copy so much as relates to our subject.

"No person shall be held to answer for a capital or otherwise infamous crime, unless on presentment or indictment of a grand jury," &c., &c., \* \* \* "NOR be deprived of life, LIBERTY, or property, without DUE PROCESS OF LAW," &c., &c., &c.—*Amendments, Article V.*

It is to be observed and kept in mind that these "AMENDMENTS" to the Constitution, added as they were, *after* the adoption of the original instrument itself, possess of necessity, and in their own nature, a *corrective, a revisory character*. They are not simply *additions* to the instrument; they are, what they are denominated, "AMENDMENTS," alterations perhaps,—*changes*. If one clause or article of the original document had appeared to conflict, or had been found to conflict with another, it might have seemed difficult to decide upon their conflicting claims. For one clause, (it might be thought,) should be to be regarded as of equal authority with another. *Not so*, when one of the conflicting clauses should be found in the original instrument, and the other in an "*amendment*." The "*amendment*" very manifestly, takes precedence, and displaces, annuls, repeals, abrogates, erases, *whatever in the original instrument is found to conflict with it*.

Suppose it should have been found, then, or suppose we should now grant, for the argument's sake, that all the parts of the original Constitution, already examined, are in favor of slavery, and none of them in favor of its abolition: suppose it were an admitted fact, that the clauses concerning "persons held to service and labor"—concerning "apportionment of representatives and direct taxes"—concerning "migration or importation"—concerning the "suppression of insurrection"—"protection against domestic violence"—and concerning "the reserved rights of the States"—suppose, we say, it were certain that each and every one of these clauses *did* "guaranty" or *did* tolerate by "compromise" the existence of Southern slavery:—suppose further, that the original Constitution had contained *no* declaration of the purpose and intent to "secure the blessings of liberty," union, justice, tranquility, common defence and general welfare—had contained *no* grant to Congress of powers for the accomplishment of these ends, *no* declaration that the "Constitution of the United States and laws of Congress, made in pursuance thereof," should be held to be the "supreme law of the land"—suppose Congress had been clothed with *no* powers over "commerce with foreign nations, and among the several States"—suppose the Uni-

ted States had *not* guarantied “to every State in this Union a republican form of government,” or that such a guaranty did not amount to a guaranty against *slavery*—WHAT THEN? If, among the subsequent “AMENDMENTS” to the Constitution, there can be found a *single clause*, or *fraction* of a clause, that either restricts or abolishes slavery by its own inherent efficacy and operation, or authorizes Congress, or enables the National Judiciary to restrict or abolish slavery, then that clause or fraction of a clause, being an “*amendment*” an *alteration*, a *repeal* of all that shall be found to *conflict* with it in the original instrument, and supplying the omissions and defects of the same, provides for the abolition or restriction of slavery *as effectually* as if, in all the preceding particulars, the Constitution, as first adopted, had been the *reverse* of what our supposition has described.

This being premised, we proceed to consider this fifth Article of Amendments. The supposition just now made, that the original Constitution had “guarantied slavery,” (if our opponents choose to retain it,) will do us no manner of harm, *here*. We are now to inquire after the meaning of an *amendment*. And if it were true that the People of the United States had pledged themselves to suppress insurrections of slaves, to return fugitives from slavery, and in other ways to become the drudges and tools of the “peculiar institution,” thus involving themselves in its guilt, its disgrace, and its dangers; *such* a circumstance, one would think, might well *entitle* them to have some share in *defining* the slavery they had “guarantied,”—to assist in prescribing its *tenure and its conditions*—to declare *who* shall “be deprived of their liberty,” and by what “*process*” they should be thus deprived of it. Otherwise they could not know *what* they had “guarantied,” nor whether they themselves and their posterity might not become the *victims* of the guaranty!

But whether the original Constitution contained a guaranty of slavery or not, it was confessedly thought important to define the conditions of liberty, and to say in what manner a “person” living under our government, could be “deprived” of so inestimable a blessing. The clause before us *contains* that definition. What is its *meaning*? What do the *words* say, in their *ordinary import and acceptance*? A “strict construction” is all we ask for, now, and *that* we shall insist upon.

“No person shall be deprived,” &c. That is, no “individual human being, consisting of body and soul”—(as

Noah Webster hath it)—no “*man, woman or child*” “shall be deprived of liberty, &c., without due process of law.”

Shall be deprived of *liberty*—i. e. “the power of acting as one thinks fit, without restraint or control, except from the laws of nature.”—*Noah Webster*.

“Without *due process of law*.”—“*Process.—In Law* :—the whole course of proceeding, in a cause, real or personal, civil, or criminal, from the original writ, to the end of the suit.”—*Noah Webster*.

In order to understand the full power and significance of this phrase, “*due process of law*,” which the writer of this Amendment took of course, from the vocabulary of our Courts of Justice, and from the accredited law literature of our language, we must trace it back to its early use, and follow it down to the present time.

“These words,” says Alvan Stewart, “from the days of King John, in the Vale of Runney Meade, to the day of the final adoption of the Federal Constitution, have been employed and understood, as having certain and fixed ideas.” “The sturdy barons and wise men of England, compelled a volatile King to subscribe Magna Charta 500 years ago, containing the words of our ‘Article,’ and from that day to this, every Englishman and American has claimed, as a part of his inheritance and birthright, the invaluable principle that ‘*no person shall be deprived of his life, LIBERTY, or property, without due process of law.*’ In fact this constitutional provision is nothing but one of those invaluable principles, priceless in character, drawn from the vast quarry of the common law.” “It is believed that no lawyer in this country or England, who is worthy the appellation, will deny that the true and only meaning of the phrase ‘*due process of law*’ is an indictment or presentment of a Grand Jury, of not less than twelve nor more than twenty-three men, a trial by a petit jury of twelve men, and a judgment pronounced, on the finding of that jury, by a Court.”\*

Judge Story, in his Commentaries upon the Constitution of the United States, (as cited by Alvan Stewart, Esq.,) speaking of this sentence of this Article of the Constitution, says :—

“The other part of the Clause is but an enlargement of the language of Magna Charta, ‘*nec super eum ibimus, nec super eum mittimus, nisi per legale iudicium parium suorum vel per legem terræ*,’—neither will we pass upon him, or condemn him, but by the lawful judgment of his peers, or by the law of the land.—Lord Coke says that these latter words, ‘*per legem terræ*,’ (by the law of the land,) mean ‘*by due process of law*,’ that is, without due presentment, or indictment, and being brought in to answer thereto, ‘*by due process of law.*’ So that this Clause, in effect, affirms the right of trial, according to process and proceedings of common law.”

The terms employed in this amendment are thus defined, and its meaning ascertained. It says that “no individual *human being*, consisting of body and soul; no man, woman, or child,” in these United States, or under the sheltering

\* See Constitutional Argument, on this Clause, by ALVAN STEWART, Esq., in the “Friend of Man,” October 18, 1837, from which our argument, on this topic, is chiefly taken, in a condensed and modified form.

wing of its Constitution, shall be deprived of liberty, (of the power of acting as one thinks fit, without restraint or control, except from the laws of nature,) without due process of law, without indictment by a grand jury, trial and conviction by a petit jury, and corresponding judgment of a Court.

Every "individual human being, with a body and a soul; man, woman, or child," within the United States, deprived of liberty *without* indictment, jury trial, and judgment of Court, is therefore UNCONSTITUTIONALLY deprived of liberty. A "*strict construction*" of the Constitution can result in no other decision than this. For this is taking the Amendment according to the literal meaning of the words.

"If this be true," says Mr. Stewart, "any judge in the United States, who is clothed with sufficient authority to grant a writ of *Habeas Corpus*, and decide upon a return made to such a writ, on the master and slave being brought before said judge, to inquire by what authority he, the master, held the slave, if the master could not produce a record of conviction, by which *the particular slave* had been deprived of his liberty, by indictment, trial, and judgment of a Court, the judge would be obliged under the oath which he must have taken, to obey the Constitution of his country, to discharge the slave, and give him his full liberty."

Come forward, now, ye claimants of a slavery under "guaranty of the Constitution of the United States!"—And come, ye claimants of "the compromises of the Constitution" in favor of slavery! What say you? Do ye still continue to urge the claim? *If so*, prepare to abide the *result* of your claims. *If there are* any such compromises or guaranties in the *original instrument*, (the Constitution of 1787–9,) then, *along* with those "compromises" or "guaranties" you must take the provisions of this *Amendment*, which (in case the Constitution has "recognized" any slavery at all) have specifically *defined* the slavery thus recognized, and fixed the bounds which it can not pass.—Search now for your *constitutional* slaves, deprived of liberty, by "*due process of law*!" By personal indictment, trial, verdict, and judicial sentence? Where are they? Or who is the claimant of *such* a slave? You claim as strict constructionists, your "pound of flesh, according to the bond!" Take it then, but take the precise, the specified pound, and take not a fraction more.

More than half a century has rolled by, since this *Amendment* became the "*supreme law of the land*." But no "individual human being" now held as a slave has ever been "deprived of liberty by due process of law." No one will pretend this. On the principle of "*strict construction*" then, the principle of abiding by the *literal meaning of the words* of the Constitution, the Congress of the United States are authorized and called upon, by the facts of the case, to



pass a declaratory act, recapitulating the facts, and declaring each and every "individual human being, with a body and a soul, man woman, or child," now held in bondage, in the United States, yet *not* "deprived of liberty, by due process of law," *to be free*. "All presumptions are to be made in favor of liberty," and therefore all who can not be proved to have been "deprived of liberty by due process of law" must be adjudged free.

If the "*peculiar*" claim shrinks from this judgment, it must abandon "*strict construction*" altogether—must take its cause out of *that Court*, or wait the proper time for filing an appeal to *another tribunal*.

More than this it must do. It must take especial care not to urge either its pretended "compromises" or its "guaranties" of the "*peculiar*" interest, either before the Court of "*strict construction*" or *any where else*! For the moment it does this, it *endorses a principle* that arms this same notable *fifth article of Amendments*, with all the formidable powers we have claimed for it, and there is no escape from its grip. Establish, by *any* principle of construction, the constitutional guaranties and compromises of slavery in the *original Constitution*, and you establish both the principle and the fact that the United States and the Federal Government, *are responsible*, politically and morally, responsible to the People, to posterity, and to high heaven, for the continued existence of that gigantic crime and curse. And how shall the United States, and the Federal Government escape from those responsibilities or honor them? In no way that we can think of, (in such a case,) more conveniently or legally, more effectually or more speedily, than by *taking the claimants at their word*: conceding to them, (*if they will have it so*,) that the *original Constitution* contained the "compromises" and the "guaranties" claimed—but insisting withal, that the *fifth article of AMENDMENTS*, with its paramount authority over the compromises and guaranties of the *original* instrument which it now *modifies and changes*, in virtue of its *amendatory powers*, has *defined, restricted and circumscribed* the slavery *thenceforth* to be compromised or guaranteed, confining it within the constitutional limits therein specified, viz:—the enslavement of those deprived of their liberty "by due process of law."

If the word "*person*" in the original instrument, means a *slave*, then the word "*person*" in the *fifth article* of the Amendments means a slave. If the condition of the slave is described by the phrase "*persons held to service and labor*," then the condition of the slave is described in the words,

"No person shall be deprived of liberty, without due process of law." And so the construction of the original instrument, relied upon to *establish* slavery, *abolishes* it, when applied to the amendment.\*

Another dilemma is thus presented, on either horn of which, at its pleasure, the "peculiar" claim is at liberty to swing. IF THE CONSTITUTION HAS "GUARANTIED OR HAS COMPROMISED" WITH SLAVERY, *then it has DEFINED it*: AND THE DEFINITION IS RECORDED IN THIS FIFTH ARTICLE OF AMENDMENTS.

It will be of no use to plead in the Court, of "strict construction" that such could not have been the *intentions* of those who drafted this clause. The question here is *not* what *they intended*, but what *they the People have done*, by adopting that clause. It tells its own story and there is no escape from its meaning.

Many a litigant has found, to his cost when in Court, that the instrument to which he had subscribed his name, a long time before, *expresses* something that he did not *intend*, when he signed it. But the Court decides according to the ideas *expressed in the document*, and not according to his own statement of his *intentions*. We are in Court, now, and a Court, too, that always sticks close to the "*strict letter of the law*."

#### SLAVERY IN THE TERRITORIES AND FEDERAL DISTRICT.

"The Congress shall have power to dispose of, and *make all needful rules and regulations* respecting the *territory* or other property belonging to the United States, and nothing in this Constitution shall be so construed as to prejudice any claims of the United States, or of any particular State."—*Constitution U. S., Art. IV., Sect. 3, Clause 2.*

The next previous clause had provided for the admission of new States into the Union. One of the earliest acts of Congress after the organization of the Government, under the Federal Constitution, was the act forever prohibiting slavery in the North West Territory, the only Territory then belonging to the United States. And no demur has ever been made on the ground that Congress did not possess the constitutional power. This would seem to settle the question, if any question of the kind could be raised, whether Congress possesses power to abolish slavery, in any *other* Territory or District belonging to the United States. But in respect to our present Territory of Florida, including the States formed out of the Territory of Louisiana, and the District of Columbia, we are authorized to occupy even higher ground. We present a view of this ground in the

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\* Vide 4th of July Address by H. E. Smith, Esq. at West Galway, 1844, in Albany Patriot, of Aug. 14.

words of some Resolutions adopted by a Liberty Convention in Ohio, and afterwards at similar conventions, at Buffalo, and elsewhere.

"That the laws of France in virtue of which slavery existed in the Territory of Louisiana; the laws of Spain, in virtue of which slavery existed in the Territory of Florida; and the laws of Virginia and Maryland in virtue of which slavery existed in the District of Columbia, ceased to be in force at the moment when said Territories and District were ceded to the United States, and consequently every slave therein, became, at that moment, free.

"That all acts of Congress, for the continuance of slavery in the Territories of Louisiana and Florida, and in the District of Columbia, after the cessions, became null and void, not only by reason of the want of power in Congress to pass such acts, but because they are in direct conflict with the fifth article of the Amendments of the Constitution, which declares that 'NO PERSON SHALL BE DEPRIVED of life, LIBERTY or property, without due process of LAW,' and also in conflict with the Preamble of the Constitution which declares the establishment of Justice to be one of the chief objects of its formation.

"That all constitutional provisions and laws of the States created within the limits of the Territory of Louisiana, and all acts of Congress admitting such States into the Union, so far as such provisions, laws, or acts, authorize or sanction slaveholding, are also null and void, because in conflict with the same article of the Amendments."

The argus eyes of the slave power and its sycophants, northern and southern, have never pretended to discover any provision, in any article, section, or clause in the Constitution of the United States, by virtue of which Congress or the United States are vested with *the power of establishing slavery any where*. "Strict construction" or any other sort of "construction" may search the instrument, in vain, for any thing of that description, or looking, even remotely in that direction—to be construed! And the tenth article of Amendments may remind us that the Federal Government holds no powers not conferred in the Constitution. We are a little curious to know by what arguments those who deny the power of Congress to *abolish* slavery, will undertake to prove the power of Congress to *create* slavery. But if it has no power to create slavery, then slavery in the Federal District and Territories is unconstitutional, and the Federal Courts are bound, whenever a case comes before them, thus to decide.

If slavery, in Florida and the District of Columbia, is con-

stitutional, then slavery might be established by Congress at West Point, or any other spot, at which "forts, magazines, arsenals, dock-yards, and other needful buildings" of the United States may be constitutionally "erected," and slavery would then be constitutional at all those places—a result too absurd for belief. Examine the Constitution and see if it be not so.

### THE CONSTITUTION AND THE DISTRICT OF COLUMBIA.

"The Congress shall have power"—"to exercise *exclusive legislation in all cases whatsoever*, over such District (not exceeding ten miles square) as may, by cession of particular States, and the acceptance of Congress, become the seat of government of the United States, and to exercise *like authority* over all places purchased, by consent of the legislature of the State in which the same shall be, for the erection of forts, magazines, arsenals, dock-yards, and other needful buildings."—Art. I, Sect. 8, Clause 16.

"*Like authority.*" These words are too plain to admit or require any explanation. Can Congress, under this clause, or by any other warrant, establish slavery at the navy-yard in Brooklyn, or at the arsenal in Springfield? If not, then it can not in the District of Columbia, and slavery is illegal there.\*

Maintaining, as we do, the power of Congress to abolish slavery even in the *States*, and denying, as we do, the *present legality* of slavery in the Federal District and Territory of Florida, &c., &c., we are scarcely able to enter, with much interest, into the question that has been so strangely mooted of late years, whether Congress has power to abolish slavery in the District of Columbia! But if any one wishes to examine that question, on the old grounds, it is pertinent to notice the "*exclusive legislation in all cases whatsoever*," which Congress, under the Constitution, exercises over the District.

"*Exclusive.*" No other legislative power on earth pretends to *any* legislative power over the District. Those who deny the power of Congress to abolish slavery in the District never undertake to tell us what legislature *does* possess that power.

"*Exclusive legislation,*" we are sometimes reminded, in this connection, does not mean *unlimited* legislation. Certainly it *does not*; and this is the very reason why Congress

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\* The reader is doubtless apprised of the fact that after the cession of the District of Columbia by Virginia and Maryland, and just before the appointed time for its coming into possession of the United States, the Congress of the United States enacted a law re-enacting in a lump, the laws of Maryland, for that part of the District east of the Potomac, and the laws of Virginia for that part of the District west of the Potomac. This act was an unconstitutional establishment of slavery in the District, without which act the slaves would have been freed.



does not possess power to *create* slavery in the District. But "exclusive legislation, in all cases whatsoever," *does* mean all such just and righteous legislation as is *appropriate and proper for all other civil governments to exercise*. So that there is no escape from the conclusion that Congress can constitutionally abolish slavery in the District of Columbia, but by affirming (as some have done) that *no government on earth has a right to abolish slavery!* And, with characteristic consistency, this ground is assumed by those who deny the inalienable rights of man by affirming that "*what the law makes property IS property:*" so that, though legislation can *create* slavery, yet legislation can not *abolish* it; in other words, that man possesses but *one* inalienable right, and that this is the right of slaveholding—the right of invading with impunity all the equal rights of his brother! It can not be expected by any reasonable person that we should waste time in the useless attempt to reason with such, or to make their absurdities more manifest than they already are.

We say nothing *here*, to the plea of "implied understandings"—"consent of citizens of the District," the "wishes of Virginia and Maryland," &c. &c., because "STRICT CONSTRUCTION" rules all such considerations out of the Court. It will not permit the jury to hear them. In another place we may look at them, and a glance should suffice. If any one, however, would be conducted over the whole ground, and feel his way, step by step, let him peruse Theodore D. Weld's "Power of Congress over the District of Columbia," originally published in the New York Evening Post, under the signature of Wythe—a work hitherto unanswered, and containing a mass of important information, along with a force and demonstration of argument that will sufficiently account for the absence of a reply.

One or two things require to be noted, before dismissing this topic. There are no "reserved rights of the *States*" to be pleaded, on behalf of the slaveholders of the *District*.—Nor, (whatever may be said of the grounds we have taken on the clause concerning "persons held to service and labor in *one* STATE, under the laws thereof, and escaping to *another*") can any persons, *under that clause*, be "delivered up, on the claim of the party to whom such service or labor may be due," in the case of such as, instead of escaping from one *State* to another, shall escape to or from the *Federal* DISTRICT. THAT soil, at least, is as sacred from the pollution of legalized, constitutional slavery, as is the soil of England itself. Slaves can not breathe there. There is

no earthly power that can, there, legally enslave them. The moment they touch that ten mile square, they are, *legally*, as free as the President of the United States himself, and can no more be lawfully enslaved *there*, or *carried away* into slavery, or made slaves on leaving the Federal District, than the President can. Whenever *law* is properly administered, by a competent and faithful Judiciary, *this* decision will stand by the side of that of Lord Chief Justice Mansfield, in the case of John Somerset.

This is manifestly true, if Congress had no constitutional authority to *create* slavery in that District, there being no slavery there, except by authority of Congress. But if Congress *has* power to *create* slavery there, it has power to *abolish* it—power to *repeal* the law that created it. Another dilemma, for the benefit of whom it may concern.

#### RESTRICTIONS ON STATE POWER.

Hitherto we have considered the duties and powers of the *Federal Government*, under the Constitution of 1787–9, in relation to the existence of slavery, whether for its guaranty or its abolition. We are now to inquire whether the same Constitution has inhibited or restricted the *power of the States* to establish or maintain slavery, by any of the *specific provisions* of that document.

The explicit guaranty, by the United States, of a “republican form of government” to “every State in this Union,” has already been noticed, along with the other responsibilities of the *National Legislature*. And it has been shown that such a guaranty is equivalent to a guaranty against slavery. A “guaranty—an undertaking, or engagement, by a third person or party, that the stipulations of a treaty shall be observed by the contracting parties, or one of them.” — *Webster's Dictionary*.

This language implies that in coming into the Union, under the Federal Constitution, the several States entered into certain stipulations with each other, that one of those stipulations was the maintenance of a “republican form of government,” and that the United States guaranteed the due observance of this stipulation, and engaged to see to it, that the government of each State should be republican. In the very act of ratifying the Constitution of the United States which contained this clause, “every State in this Union” *did* stipulate and agree to maintain “a republican form of government,” and *did* agree that “the United States” shall see the stipulation, on the part of each State, observed.

But this mention of a republican government was in gene-

ral terms. We shall see now whether the same Constitution imposes any particular prohibitions or restrictions upon the States, by provisions that go into details, and vitally affect the *republican character* of a State.

Article I., Section 10, imposes a variety of restrictions upon the States—some of them incidental to their new position as members of a more extensive government, entrusted with the foreign relations of the country, its currency, its army, its navy, its commercial polity, &c. With these prerogatives of the General Government, the States were not to interfere. But along with these inhibitions were others, of a different character, and looking directly to the *security of individual rights*, the preservation of *republican equality* among the People.

“No State shall \* \* \* pass any bill of *attainder*, ex post facto law, or law *impairing the obligation of contracts*, or grant any title of *nobility*.”—Art. I., Sect. 10, Clause 1.

The next clause of the same section provides that “No State shall \* \* \* keep troops \* \* \* in time of peace, or engage in *war*, unless actually invaded, or in such imminent danger as will not admit of delay.”

“**ATTAINDER.**—1. *Literally*, a staining, corrupting, or rendering impure; a *corruption of blood*. 2. The judgment of death, or sentence of a competent tribunal upon a person convicted of treason or felony, which judgment *attaints*, taints or *corrupts his blood*, so that he can no longer *inherit lands*. 3. The ACT of attainting.”—*Webster's Dictionary*.

That which the dictionary describes as the judgment or sentence of a tribunal, is what the Constitution says the State Constitutions and State Legislatures shall not enact. Particularly, they shall “pass no bill”—*enact no statute*, that does this thing. It may not do it, even in the case of a person “convicted of treason or felony.” Even for those crimes, it may not “taint or *corrupt his blood*, so that he can no longer *inherit lands*.” Of course it may not do this, in the case of a person convicted of the crime of having been born of a slave mother, or in the case of innocent persons, charged with *no crime*!

But every slave State has its *bill of attainder*, without which not a single slave could be held in the State; and the *repeal* of which would be the abolition of slavery.

Every slave in America is a human being thus attainted. The slave code thus attaints him. It says expressly, “*Slaves can not take by descent*.” They can not be heirs. They can not inherit, or hold lands. They can receive and hold nothing by will or bequest. “The slave can hold no property.”

Every slave in America, not imported from abroad, (and such importations have been prohibited since 1808,) is a slave *because attainted, corrupted in blood*, by the slave law.

It is a *bill of attainder* running from generation to generation without limitation or end! The slave child follows the condition of the mother. "The noblest blood of Virginia runs in the veins of slaves," and is attainted by this *bill of attainder*. The sons and daughters of Presidents, and Governors, and members of Congress—the "posterity" of those who framed and adopted the Federal Constitution "to secure the blessings of *liberty* to themselves and (their) posterity," are corrupted by these bills of attainder in the slave States, "so that they can no longer inherit lands," or hold in legal possession a dung-hill fowl or a pig! The wide world knows all this, and no one is so stupid or so emulous of being accounted an ignoramus as to call it in question. Where then, is the clause of the Constitution of the United States that prohibits the States from passing bills of attainder? Has it any efficacy, or power? *Has it any meaning?*

"CONTRACTS."—"No State shall pass any law \* \* \* impairing the *obligation of contracts*."—*Constitution*.

"The slave can make *no contract*." "No contract made with a slave shall be binding." "The slave can not even contract marriage." "A slave can make no bargain, barter, or sale."—*Laws of Slave States*.

To buy any thing of a slave is a grave offence, in some of the slave States.

The *very words* of the Federal Constitution, and of the laws of the slave States are here brought into direct and harsh collision. What the former forbids to be done by the States, the latter emphatically does.

A merchant or a ship-master visits Wilmington, North Carolina. He enters into the shop of a cooper. He finds the boss cooper, apparently as white a man as himself. He contracts with him to put in order for shipping, a cargo of staves and heading he has just purchased. The job may amount to some two hundred dollars or more. The cooper, with his gang of hands, goes about the work. By contract he receives fifty dollars in advance, to distribute among his hands, or for other uses. The next day the cooper is missing. It turns out that he was a slave. His master has other work for him. He *had* permitted him, for a monthly stipend, to drive his trade, for himself; but he has altered his mind, or a creditor has seized upon the cooper, or he is sold, and is on the way to Louisiana. What shall the ship-master do, for the fifty dollars? Can he claim it of the cooper's slave-master? No! Can he claim it of the cooper, if he can find him? No! *But why not?* Because the State of North Carolina has "*passed a bill impairing the obligation*



of contracts"—has enacted that no contract formed by the child or grand-child of a slave mother, to the thousandth generation, can be binding!

A slave contracts matrimony. Is the contract honored as binding? No! Because the law of slavery has *impaired the obligation of contracts*.

A slave owner is in the habit of sending an active slave to market, with his produce. He is even permitted by the master to contract sales beforehand. You bargain with him for a wagon load of flour, or of bacon, to be delivered in three days. You bargain before competent witnesses, and deliver some goods or money in advance. The day comes, and brings the market man with his load of produce; but he unloads at your *neighbor's* door instead of *yours*. You remonstrate, but in vain. The slave master has ordered the produce delivered to pay an old debt, or (more probably) to get a higher price, or to cheat you out of your advanced payment which he has appropriated to himself. Have you any redress? No. And simply because the State has passed a law, "*impairing the obligation of contracts*."\*

A slave bargains with his master for the price of his freedom. He takes his master's written agreement signed with his own hand. Once a year he pays him one hundred dollars, according to agreement, and takes his master's receipt. In ten years the whole payment is completed, and he asks for free papers. Can he demand them? No. Can he get his money back again? No. Do the written agreement and the receipts avail him anything? No. But why not? Simply because the State has "*passed a law impairing the obligation of contracts*!"†

Are such laws *constitutional*? If they ARE, what does this clause of the Constitution *mean*? We do not stop to ask what it is *worth*! We are in the Court of "*strict construction*" now, searching after the *meaning of words*!

"NOBILITY."—"No State shall grant any title of nobility."—*Constitution*.

But what is a title of nobility?

"*Nobility*. \* \* \* (Among other definitions,) \* \* \* "*Distinction by blood*, usually joined with *riches*." The qualities which constitute

\* The case described actually occurred at Wilmington, N. C., some years ago, during the writer's residence there. The slaveholder was a citizen of high standing, in political life.

† Another case, of not unfrequent occurrence. More than one fugitive slave has come to the North, within a few years past, with all the documents in his possession—the written agreement, the several receipts covering the sum stipulated, and yet has been obliged to run from the chase of blood-hounds to get his freedom.

*distinction in rank*, in civil society, according to the *customs or laws* of a country.”—*Webster's Dictionary*.

“*Title*.—An appellation of dignity, distinction or pre-eminence, given to persons, as, a *duke*. A *name*, an *appellation*.”—*Ib*.

“The institution of *domestic slavery* supersedes the necessity of an *order of nobility*, and all the other appendages of a hereditary system of government.”—*Message of Gov. McDuffie of South Carolina*.

That is to say, it answers, substantially, the same *ends*—is essentially, the *same thing* under another name.

The slave State grants the “name,” the “appellation” of slave owner. It grants *unlimited powers* and high “*dignities*” along *with* the name or “*title*.” The “qualities which constitute” a slaveholder carry with them, and “constitute distinction in rank, in civil society, according to the customs or laws of (this) country.” In some of the States, a man must be a slaveholder, in order to be eligible to certain offices. It is so far a “*distinction by blood*” that “white” persons only can be slaveholders, and children of slave mothers must always be slaves, and *can not* be slave owners. The claim is founded much on the superiority of the “Anglo-Saxon *blood*” to the “African.”

The “distinction in rank, in civil society,” which the slave owner holds “according to the customs or laws of this country,” corresponds very nearly to that of the higher castes of the Asiatic nations, the feudal lords or barons, in the middle ages in Europe, and still retained by the nobility in Russia. This parallel is frequently insisted on, by the advocates of slavery, in justification of the “*institution*,” and in proof of its conservative character, and its patriarchal antiquity. The very phrase—“*political institution*,” with which it is dignified by its friends, is proof that *they claim for it* the honors of “a system, a plan of society established by law,” for the promotion of political ends.\* As a political institution, a “system or plan of society” established by State legislation, it changes the whole framework of the government in those States, nay, in the United States, as a general government—the very thing that the clause before us was obviously framed to prevent. As a “*political institution*” it is cherished and valued and defended by statesmen who perfectly understand and admit the unprofitableness of slave labor. Like other political institutions of a similar character, it is wielded for the exclusive benefit of the *privileged caste* at the expense of *all others*. It operates to withdraw political power from the mass of the people, the laboring population, and confer it upon a *select few*, which is the very description or definition of aristocracy, or government of *nobles*.

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\* See Webster's definition of an “Institution.”

"*Aristocracy*.—A form of government, in which the whole supreme power is vested in the *principal persons of a State*."—*Webster's Dictionary*.

"The supreme power" of the slave States is vested almost exclusively in those "principal persons of (the) State," the slaveholders, as has been shown in another connection. This privileged class of 250,000—this "peculiar" "order of nobility" that governs the slave States, constitutes but about *one sixty-eighth part* of the aggregate *seventeen millions* of inhabitants of the United States. Yet this petty oligarchy holding its "title" to the political powers of an "order of nobility" by virtue of the legislation of the States wherein they reside, and which they control at their bidding, have succeeded likewise in controlling the National Government itself, monopolizing, almost in perpetuity, the highest offices in the nation, moulding the national policy and wielding the national resources (through the legislative, executive, and judicial departments) for the exclusive benefit and aggrandizement of the *caste*, regardless, utterly, of all *other* interests, either sectional or national, whenever they come in competition, as they can not fail to do, with the "peculiar institution"—its stability, and its claims. All this, we repeat it, is done by *one sixty-eighth part* of our whole population—by a body of men whose aggregate numbers amount to little more than *one-half* the number of *legal voters* in the single State of New-York! All this too, by virtue of *State legislation*, which if repealed or annulled, would *instantly annihilate the caste itself*, and revolutionize *all our political affairs*!

If this be not an "order of nobility," in what particulars does *the definition of the thing consist*? Comparing *the facts* of the case with the definitions of our *lexicographers*, what else can we make of those *facts* than the veritable original existences, of which the *words* of the Constitution are the *expression*? By all intelligible apprehension or *construction of language*, does it not appear that the provision of the Constitution which inhibits the States from granting any "titles of nobility," is identical in *meaning* with that *other* provision which enjoins on the States "a republican form of government," and that both are equivalent to a prohibition of slavery?

It avails nothing to say that, in many particulars the "peculiar" institution differs from the aristocracies of the old world. The aristocracies of Europe differ as much from those of Asia, as those of the American States do from both. The aristocracy of France differs from that of Venice, and both of them from that of Russia. The present aristocracy



of Great Britain differs from that of its own ancient feudalism. But all are, alike, aristocracies, nevertheless. An order of "nobility" *precisely* upon the model either of the ancient feudal or modern European States, *could not have been* established in the American States, and a constitutional prohibition to *that* specific point would have been *without meaning*; as much so as it would have been to have prohibited the establishment of the Hindoo castes, or the patriarchal arrangements of Melchizedek's time. Instead of this the Constitution selects a generic term, that includes all the different species. The comparison of our American "nobility" with those of other nations and ages, would be a curious and an intricate one. In some particulars, the one might have a fair claim for the preference, and in other respects, the other. As a whole, it would be difficult to select a more odious, a more mischievous, a more anti-republican one than the American—none, certainly, so wicked, so cruel, so inhuman, so degrading, so demoralizing. In the comparison with it, the system of feudalism, which in some respects, it strikingly resembles, and to which it is often compared by its friends, was magnanimous and manly. *That* was founded on the spirit of military adventure—*this*, upon cupidity and meanness. The "*chivalry*" to which our American nobility of woman-whippers lay *claim* (thereby *asserting* their prerogatives as feudal chieftains or *barons*) is a quality which the semi-barbarous "nobility" of ancient Europe really *possessed*. They did not drive a nefarious traffic in the sinews and souls of their own children. They did not sell infants at auction by the pound. The serf was attached to the soil, but he was not an article of commerce, a chattel personal. The peasantry were not degraded by the incapacity to contract marriage, to live in the family relation, to possess some articles of property, and even to hold lands under a certain tenure and for services rendered. And they freely uttered their thoughts. If degraded, the serf was a degraded *man*, and not a mere *thing*. He was not manacled and driven to his daily task by a driver. So far from being prohibited to bear arms, one of his avocations was that of a soldier; he was relied upon for his country's defence instead of being guarded by a patrol—the main tie that bound him to his master, was his relation *as* a soldier, to his *chieftain*, (whose family name he sometimes bore,) and to his "*clan*," in whose fame and triumphs he had a share. The feudal system, therefore, as a political arrangement, did little to *degrade the masses* under the heel of a *caste*, in the comparison with the slave system. If it degraded industry,



it was not so much because it made labor the badge of servility, as because it inspired those who should be laborers with the ambition of military renown. *Such* a system would less violently and rudely clash with the aims and arrangements of a *free republic* than the slave system. In other words it would be less aristocratic, would establish an *order of "nobility"* of a mitigated character, less obnoxious to the charge of subverting the liberties of the people.

"*Serf*. A servant or *slave* employed in husbandry, in some countries attached to the soil and transferred with it."—*Webster's Dictionary*.

"*Villein, or villain*. In feudal law is one who holds lands by a base or servile tenure, or in *villanage*."—*Ib*.

"*Villanage, or villenage*. 1. The state of a villain; base servitude. 2. A base tenure of lands; tenure on condition of doing the meanest services for the *lord*."—*Ib*.

"*Feudalism*. The feudal system; the principal and constitution of feuds, or lands held by military services."—*Ib*.

The feudal "chief" or "chieftain" was the commander or head of a troop of serfs—or over a "clan" composed of such. "Chieftainship, or chieftainry" was "*the government over a clan*."—*Vide Webster*. The feudal chiefs were sometimes called "*barons*," and the word *baron*, according to Webster, is "*a title of nobility*." The States are inhibited, by the Constitution, from granting "*titles of nobility*." A "serf" is a sort of "slave," and his master is a "*lord*."

Can any one doubt that the adoption of the *feudal system*, by one of the States, would be a breach of this provision of the Constitution? And if so, by what *construction of the language* employed, can we make it appear that the *still more* despotic and aristocratic system of American servitude is not also a breach of that same provision? If the *lesser* would be, why not the *greater*?

A comparison of our American "nobility" with that of *civilized modern Europe*; and of American *slaves*, with European *peasantry*, would exhibit contrasts still more striking. The distinction now existing between nobles and commonalty in England, in the comparison with the ancient distinction between barons and serfs, has almost melted away! How manifestly then do our American slaveholders constitute a more despotic specimen of "nobility" than the nobility of Europe!

The only remaining question is, whether this provision of our Constitution retains *any meaning*, and if so, *what* that meaning *can be*? If it can not protect us from the most unmitigated of all aristocracies, from the most absolute and irresponsible of all orders of "nobility," from *what* aristoc-

racies, or from *what* order of nobility *can* it protect us? And *how* can it do this?

"*War.*" "No State," (says the Constitution,) shall "keep troops in time of peace, or engage in *war*, unless actually invaded," &c., &c.

"*Civil War.* A war between people of the same State or city."—*Webster.*

Have the States a right to make war upon "one-half" of their own "citizens?" Are the slave States, as a matter of *fact*, in a state of *war*? If they *are*, what has become of the constitutional provision that forbids it? If they are *not*, by what authority, under the Federal Constitution, do they keep up their "armed troops," their military "patrols" "*in time of peace*?" What right have they to authorize the scouring of the country by armed troops with rifles, pistols, and other military weapons, (to say nothing of blood-hounds,) to hunt down and shoot, without judge or jury, a portion of the people, for no fault, but a desire to "secure for themselves and their posterity, the blessings of liberty?" What right have they to pass "acts of outlawry" against the laboring people, for no crime but refusing to labor without wages, or for the misdemeanor of visiting their husbands and wives, their children or parents, or seeking a residence with them? Have the States a right, under the Federal Constitution, to wield *military force* for objects like *these*? If they have, what is *the meaning* of the constitutional inhibition just quoted? And by what rules of *interpretation* shall that provision be so construed as to prohibit any *other* species of *war*, or any *other* State arrangements for maintaining armed forces in time of *peace*? In another connection we have shown that the "suppression of insurrection," and the "execution of the laws," do not call for any military demonstrations, nor authorize them, in such cases as those now under review.

Another constitutional provision requires a moment's attention in this place.

"The citizens of *each State* shall be entitled to all the privileges and immunities of CITIZENS, in the several *States*."—*Article IV., Section 2, Clause 1.*

But many of the "citizens" in some of the States, are free people of color. They are recognized as citizens by the Constitutions and Laws of the States wherein they reside. Large numbers of them are legal voters and vote at Presidential as well as State elections. They are eligible, and are sometimes elected to office. A colored man has been a member of the legislature of Massachusetts.

Now the laws of all, or nearly all the slave States, or the regulations and ordinances of cities within those States and under State authority, are in *direct violation* of the above provision of the Constitution, so far as free citizens of color are concerned. They can not visit the slave States without being subjected to violations of their rights as citizens, by the public authorities of those States. If they visit the Southern seaports in coasting vessels, as seamen, they are seized and put in prison for safe keeping, till the vessel is ready to depart. This is a fact of common and general occurrence, and if the colored citizens were ship-masters, supercargoes, or ship-owners, the law would equally apply to them. Any such citizen of a free State, visiting a slave State, is liable to be seized on suspicion of being a fugitive from slavery, thrust into jail, and unless able, (under such disadvantages,) to make satisfactory proof of his freedom, sold into perpetual slavery, *attainting his posterity forever*, under the great Southern "BILL OF ATTAINDER," **FOR THE PAYMENT OF HIS JAIL FEES!** [Strange to tell, the laws and the usages of the Federal District itself, under "exclusive legislation of Congress," and under its eye, conforms to this general law of slavery in the States, on the plea that comity to the States requires it, and that in no other way can "the peculiar institution" be preserved!] Thus complete are the triumphs of the slave power over the plainest and most pointed prohibitions of the Federal Constitution.

The time would fail to point out all the ways in which the rights of *white* citizens of the free States secured under this clause, are violated by the action of the slave States. At this moment, there are thousands and tens of thousands of citizens of the free States including many of their most estimable inhabitants, and not a few gentlemen of literary distinction and high station, ministers of the gospel and statesmen, who can not, with safety to their persons, visit large portions of the slave States. In some of those States they would encounter enactments for the capital punishment of those who should have spoken or written against slavery. In none of them, perhaps, would they be secure of *protection* from the summary vengeance of "Lynch law"—and in some cases, they would be dependent for that protection, on the State authorities that had demanded of Northern Governors the delivery into their own power of white Northern citizens, to be tried under slave laws, for the crime of writing, *even in a free State*, against slavery—authorities too, that had demanded Northern legislation against freedom of

speech and of the press—authorities that had offered large rewards for the felonious abduction, *in* the free States where they resided, of free white citizens, for the same crime of writing against slavery!

Is any more evidence needed, that *this* constitutional provision is, with impunity, violated, and made of none effect, by the action of the slave States?\*

And all this, be it remembered, is in harmonious keeping with the common and prevailing *expositions of the Constitution* which make it a “guaranty” of slavery or a “compromise” with it, and *therefore* a crime or a misdemeanor for any subject of the Constitution to oppose SLAVERY, the sacred object of constitutional protection!

### THE “SUMMING UP.”

1. In this chapter we have examined, upon the principles of “strict construction,” those provisions of the Constitution that have been held to involve a “guaranty” of slavery, or its tolerance by “compromise,” and we claim that, on those principles, no such guaranty or compromise can be proved.

2. On the same principles, we have considered other portions of the Constitution, which we claim to have proved inconsistent with the existence of slavery in the States, and to require and authorize its abolition, by the Federal authorities, judicial and legislative.

Let the supposition now be made, for the argument’s sake, that we have failed to prove what we claim to have proved, under this *second* head. It might still be true that no “guaranty” or “compromise” in favor of slavery, on the principles of strict construction, could be proved. This would leave the “peculiar” institution without the benefit of a national *guaranty* or even a *compromise*, in its favor. And from that circumstance we could deduce an argument not very different in its *practical results* from the one now reached. Remove from slavery the *support* it derives from the Federal Government, and it speedily falls. And besides, in the absence of any guaranty or compromise *in its favor*, what consideration of justice or policy could forbid the Federal Government to *abolish* it?

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\* Since our first edition was published, a still further illustration has been furnished, showing that the circumstance of *color* furnishes no barrier nor exception to the usurpations of the slave power. The State of Massachusetts, through her Legislature and Executive, commissions one of her most distinguished and venerable citizens, Hon. SAMUEL HOAR, to visit South Carolina, for the purpose of acting as attorney on behalf of colored citizens of Massachusetts, illegally imprisoned in that State, with a view of testing, in the Federal Courts, the constitutionality of the State laws of South Carolina, authorizing such imprisonments;—whereupon the Governor and Legislature of South Carolina promptly and unceremoniously *expel* the authorized agent of Massachusetts from their State!



We will now vary the supposition a little. Let it be assumed for a moment, that the Constitution, by the principle of "strict construction" has been found to conflict with itself—that while on the one hand, it contains some provisions in favor of slavery, on the other hand, it contains some provisions against it. Not a few *have believed* this to be *the fact*, and they have been puzzled and perplexed with the supposed phenomenon, and have solicitously asked how such a Constitution could be administered. Others have supposed that each feature and provision of it, whether *for*, or *against* slavery, was to be carried into effect, in its place, however conflicting in their results! On this point we have a thought or two to suggest.

"Strict construction" has nothing to do with the task of reconciling inconsistencies and contradictions in a written document. It can only expound its several parts by the help of its grammar, its lexicon, and the current use of the terms and phrases, according to the accredited literature within its reach. When it has done this, its functions are fulfilled. It is neither a legislative, nor yet an executive power. It is simply judicial, and its judgment is guided exclusively by *one rule*, namely, the *dead letter of the words*. It can not, like *other* tribunals, inquire after the *spirit*—the *main scope*, the *grand design* of the instrument, and make its minuter details bend into consistency with *that*, or give way to it. If the Constitution by the strict letter, has provided for the establishment of justice and the robbing of hen-roosts—if it has enjoined the preservation of liberty for ourselves and posterity, and the seizure and enslavement of every sixth man, woman, and child among us, if it has made it the duty of Congress to provide for the general defence, and to convert one-half our citizens into enemies, if it has guarantied a republican form of government and has guarantied the perpetuity of a ruling oligarchy, if it requires us to guard the President's house from all danger, and to put five tons of Dupont's best gunpowder under it, and light the dry match that leads to it, "strict construction" with due gravity and composure records it all, and reads off its record without a stammer or a changed muscle. *That is its verdict.*

But what shall the *executive* power do with it? Do? Why do nothing at all, of course, until impossibilities cease to *be* such. Let it rob the hen-roosts, according to law, and by judgment of Court, but take care to do it only *when*, and *as* it can *be* done, according to law, that is, in accordance with "*justice!*" Let it seize and chattelize its prescribed proportion of our citizens, only taking care to do it in such

a manner as to "secure the liberty" of all our citizens, and "their posterity"—let it convert one half its citizens in one half of the States into enemies, but in such a way as to "promote the general welfare, and provide for the common defence"—let it "guaranty" or tolerate by "compromise" a ruling oligarchy of 250,000 men to control seventeen millions, whenever it can be done in consistency with a "republican form of government," and without any "bills of attainder" or laws "impairing the obligation of contracts" by the authorities of the States. And let it blow up the President's house with gunpowder, whenever it can be done with perfect safety to that edifice! This is all that "STRICT CONSTRUCTION" can award, or authorize to be done, so far as the "peculiar" claim is concerned, and for the plain reason that *one* provision of the Constitution is as precious in its eyes as *another*, and each must stand valid upon the independent power of its own immaculate words and syllables!

For illustration's sake, let the *slave power* stand before the Court, in the person of Shakspeare's relentless Jew, *Shylock*, demanding his pound of flesh, from the Christian merchant of Venice, to be cut out of his very vitals, "*according to the bond!*" The plea was a "strict construction" plea, and the Court was a "strict construction" Court. The sentence accordingly had to be rendered in favor of the plaintiff! The pound of flesh was his "*due*," and he might cut it out where he pleased! "*A Daniel come to judgment!*" triumphantly exclaims the revengeful Jew, as he whets his murderous knife for the slaughter "according to law!" But hold! rejoins the Judge. "*One pound*" is the judgment of the Court "according to the bond." At your peril, cut not a fraction *less* or *more*! And again. *Another* statute, says the Judge, provides that if a *Jew* do shed one drop of *Christian* blood, his life shall pay the forfeit! At this the Jew lets drop his knife, and offers to withdraw his claim and leave the Court. But hold! again, exclaims the "strict construction" Judge. *Another* law provides that if a Jew *conspires against the life* of a Christian, that Jew shall die, and his estate be confiscated unto the State of Venice! Thou, *Shylock*, hast conspired, in open Court, against this Christian's life, and now the sentence of this law must rest upon thee! "*A Daniel come to judgment*"—a thousand voices respond. "*A Daniel come to judgment! I thank thee, Jew, for teaching me that word!*"

If "strict construction" *could* award to slavery what it *claims* under the Constitution of 1787-9, the return of fugitive slaves, the apportionment of representation upon the

basis of slavery, the twenty years' tolerance of the African slave-trade, the quelling of refractory slaves by the national arm, the "reserved rights of the States" to fatten upon their pound of human flesh "according to the bond"—of what earthly avail could be the verdict *in favor* of those claims, so long as it must *accompany another* verdict, affirming the right and the duty of the Federal Government to "establish justice," "secure the blessings of liberty" and "provide for the common defence?"

We may understand, by this time, the *result*, (not to say here, the absurdity,) of supposing the Constitution to contain provisions in favor of SLAVERY, and provisions to "secure the blessings of LIBERTY." *If it be so*, and if "strict construction" must thus determine, why then, it must determine in effect—for it must *follow*—that the constitutional provisions in favor of slavery can be of no benefit to the claimants. The *verdict* they may have, and welcome. But the *uses* for which the verdict was sought, can not be reached, so long as the other—the conflicting provisions of the Constitution remain.

In no way then, can any *available* verdict in favor of the slave claim, be obtained, but by making it appear that *all* the provisions of the Constitution are in harmony with the slave system; that while *some* of them are distinctly in its FAVOR, none of them are decidedly AGAINST it. But this can not, with any show of decency, be pretended. And of course, the "peculiar" claim falls to the ground, even if it *were* so, that the argument of this chapter had not been fully sustained—which we do not admit.

Returning from this digressive supposition, (which we have made for the benefit of those who are inclined to split in two, with their convenient beetle-and-wedges arbitrament, every disputed question,) we insist that in the Court of "STRICT CONSTRUCTION" the Constitution of 1787-9 has been found to contain *no* guaranties or compromises in favor of slavery, but a number of explicit provisions against it, fully authorizing the exercise of the Federal Power for its overthrow. We are now ready to meet the "peculiar" claim at that other tribunal to which it has our leave to appeal. In our next chapter we shall see whether "the *spirit* of the Constitution" is more favorable to slavery than its *letter*.

## CHAPTER III.

## “SPIRIT OF THE CONSTITUTION.”

THE CONSTITUTION OF 1787-9. *Considered in the light of its spirit, its objects, its purposes, its principles, its aims.*

1. Preliminaries—“Spirit of the Constitution” defined—Its province and authority as a rule of construction—An obvious but neglected distinction. 2. Spirit of the Constitution as manifested by the instrument itself—by its Preamble—by its grant of powers—by its construction of the Federal Government—by its care of personal rights—by its provisions hostile to slavery—Spirit of the Preamble—Spirit of the powers conferred—Structure of the Federal Government—Security of personal rights—Provisions hostile to slavery—Affinity with Common Law—Specimens of Common Law—Its power. 3. Spirit of the Constitution, as attested by History, by civilians, and jurists—Extent of the National Power. 4. The Constitution construed—The “spirit of the Constitution” on the wool-sack. 5. Special pleadings, their fallacy.

## SECTION I.

## PRELIMINARIES.

There are but two different methods or rules of construction, by which the meaning of a written document, like our Constitution, may be interpreted and explained. The one refers us to the LETTER—the other to the SPIRIT. Having attended to the *former*, we come now to the *latter*. We open our eyes upon a wider field, and a more attractive one. A few particulars must be premised, and “the rules of the Court” understood. We are to try the cause by another set of maxims, now.

1. The language of the Constitution is not to be *excluded* from the present inquiry, though it is not *exclusively* to be depended upon, as it was at the lower Court. At the present Court, the words used in the document, are admitted as witnesses, but other witnesses are admitted along with them.

2. The prevailing spirit, the general scope, the leading design, the paramount object, the obvious purpose of the instrument, constitute the *first*, the *chief* point of attention. If any minor objects, collateral interests, incidental details, local designs, temporary arrangements, or doubtful and disputed provisions present themselves, all these are to be grouped together, as constituting *secondary* topics of inquiry.

3. The latter or secondary class, are in the next place, to be disposed of, in the light of the former, or primary; are



to be construed in such a manner as not to conflict with, or thwart them, or else they must be set aside, as inexplicable, impracticable, contradictory, or suicidal. Otherwise, very manifestly, (in case of discrepancies, and contradictions, to which all the written instruments of fallible men are subject) there will be to be witnessed, the sacrifice of the PREVAILING SPIRIT AND PARAMOUNT OBJECTS of the instrument to petty interests and absurd details, or else we shall be obliged to see the Constitution stultified by its palpable self contradictions and impracticabilities, precisely as (under a similar *supposition*) upon the principles of "strict construction" we have already seen done.

In other words, we should be driven back again, to that same Court of "strict construction" whose verdict and judgment we have already obtained, or to *no* construction, at all. For the very notion of "*construction*" supposes that something *needs to be* explained and determined, that had seemed anomalous, obscure, or doubtful. Construction, moreover must proceed by *some rule*. And to say that the "SPIRIT OF THE CONSTITUTION"—in distinction from its *dead letter*, must furnish that rule of construction, is the same thing as to say that the spirit of the Constitution must *control* and *govern* that construction, so that every thing apparently conflicting with the spirit of the Constitution must either be so understood as to *agree with* it, or else be set aside to give *place* for it. To demur against *this* would be to *appeal from* the "spirit of the Constitution" to something else. And if neither the letter *nor* the spirit of the Constitution can guide us, it becomes a nullity.

4. In determining either the general spirit of any written instrument, or the meaning and intent of its particular details and specific provisions, a *distinction* is to be preserved between the spirit, design, or intentions of the *principal party* or parties interested in the document, who sign and seal it for ratification, as being *their own act*, and the spirit, design and intent of the persons employed to *draft* and prepare such an instrument, including, (it may be) the spirit, design and intent of a minority of the persons concerned, acting with the draftsmen, in distinction from the main body concerned. The design of the *former* instead of the *latter* is the main thing to be ascertained. The testimony of the latter to the designs of the former, is to pass for what it is worth, in connection with other testimony, and no more.

Thus, in a *will*, the main thing is the design of the *testator*:—this is not to be confounded with the design of the penman of the will, closeted with a few of the heirs. The

design of the parties to a written agreement, (or the main body of them, where large numbers are concerned,) is to be held quite distinct from the designs of the men employed to draw up the paper, in connection with a few others who may be near them. And "*We, the people of the United States,*" who adopted the Constitution, and whose act and instrument it is, are not bound to concede that *our* design, in adopting and maintaining it, was, of necessity, identical with what *may* be proved to have been the design of the persons, or a *portion* of the persons, we employed to prepare it for us. What the Convention of 1787, or a portion of it, *intended to effect* by the Constitution, is not to be confounded with the designs, especially the PARAMOUNT OBJECT of THE PEOPLE *who adopted it*. The objects of the Convention, or members of it, may deserve our attention, and their testimony to the spirit of their times, may command respect. But *their* intentions are *not* to be substituted for the intentions of THE PEOPLE, or confounded with them. Nor are the intentions of a mere fraction, an oligarchy of the people, to pass for those of the people themselves.

With these needful memoranda, to prevent our confounding things that are radically distinct from each other, or putting them in places where they do not belong, we proceed to our inquiries.

But how shall the "spirit of the Constitution" be ascertained?—First, by an inspection of the document itself:—second, by such external evidences as may present themselves.

## SECTION II.

### THE "SPIRIT" MANIFESTED BY THE INSTRUMENT ITSELF.

"Even a child is known by his doings." The spirit and temper of every man is apparent in his deportment and methods. The implements invented by men reveal *the spirit* in which they were conceived and framed, by the general purposes, whether of utility or of mischief, that they were evidently adapted to subserve. No one need mistake a plough for a military weapon, nor a "field piece" for an utensil of husbandry. The *spirit and design* of every piece of machinery is indicated by its form and structure. It may be perverted to unsuitable purposes, though made with a wise and benevolent design, and it may bear marks of having been wrenched and injured by the absurd process. By these common sense rules, let the "*spirit of the Constitution*" be tested.

### “SPIRIT” OF THE PREAMBLE.

The strict *letter* of the Preamble has been examined, and found hostile to slavery. And wherein can its “spirit” be distinguished from its letter? If in *any* thing it is in *this*: that the “*spirit*” of the paragraph, is, if possible, still more emphatically and unmistakably belligerent in its aspect, against slavery and imperative in its demands for its overthrow. If the claimant of constitutional slavery, in the Court of “strict construction,” should have ventured to perk himself upon technicalities, and demand that “slavery” and its “abolition” should have been distinctly specified by name in the Preamble, in order to have made out a warrant for the congressional abrogation of the slave laws of the States, there can be no room for any suggestion of the kind, here. We are not at the Court of “strict construction” now, nor trammelled by its narrow rules. We rise from the *letter* to the *spirit*—from the mere *words*, to their fullest comprehension and extent. We recognize here, in addition to the mere *language*, the *spirit* that evidently breathes through that language, and moves and refreshes our inmost souls. We claim that the “spirit of the Constitution” speaking through this Preamble declares, *for itself*, its high aims and intents; that it speaks out in the *authoritative voice of law*;—that it utters no rhetorical flourish: no canting profession. We claim that each and every specification in the Preamble, is a DEFINITE PROVISION of the “*spirit of the Constitution*,” as truly so as the clauses that tell how the judges of the Federal Court shall be appointed, and the votes cast for President and Vice-President. We claim that “the spirit of the Constitution” ENJOINS on the government it creates and defines, such legislative, judicial, and executive action, as shall truly and effectually “form a more perfect UNION, establish JUSTICE, ensure DOMESTIC TRANQUILITY, provide for the COMMON DEFENCE, promote the GENERAL WELFARE, and secure the blessings of LIBERTY to ourselves and our POSTERITY.” And no one doubts that this would *include* the abolition of slavery. Whoever may carp and cavil about technicalities and *words*, no one with “the spirit” of a man in him will deny that “*the spirit*” of this Preamble requires of the Government created by it, the overthrow of slavery among “the People of the United States.”

### “SPIRIT” OF THE POWERS CONFERRED.

And this is still further proved by the ample powers bestowed upon Congress, to carry the declared objects and provisions of the Constitution into effect—to “make all laws

necessary and proper" for that purpose.—[*Art. I. Sec. 8, Clause 17.*] Had the "spirit" of the Constitution even *apparently* failed to clothe the Government of its creation, the instrument of its high purposes, with the requisite *powers* to do the things declared to be the main object of the Constitution, there might have been some *apparent* ground for a doubt. But certainly there can be no rational or magnanimous doubt, now. When a parent charges a child with the transaction of a certain piece of business, declaring with precision and emphasis, the *main objects* he wishes to have him "*secure*," and then actually puts into his hands all the needed implements for the task, including his own well executed power of attorney authorizing him to act in that precise direction, what candid man could doubt that the "spirit" of that parent and of his instructions was sufficiently revealed by these acts? The Constitution, as the parent of the Federal Government, has directly and explicitly declared the main work and business of that Government, in the specifications of the Preamble. Then in the clause above cited, the parent puts into the hands of the child his "power of attorney" fully vesting him with power to do the work described. How preposterous, after all this, to doubt, either the *legal authority* of the child to do the *very errand* he was sent upon, or the "spirit" of the parent's instructions!

If the positive and unequivocal declaration, by the Constitution, of its MAIN OBJECT in establishing the Federal Government, can not be understood to be *binding*, what part of the Constitution *can* be held to be binding? And if that declaration of its main object, thus connected with the explicit grant of the *powers* necessary for its accomplishment, can not reveal the "spirit of the Constitution," in what possible way *could* it be revealed?

To say that it should have been revealed by the technical terms "*slavery*" and "*abolition*" would be the same as to say that the CONSTITUTION should have been a STATUTE BOOK. It would be saying, in effect, that the "*spirit* of the Constitution" can reveal to us *nothing*, and that we must go back to the *dead letter* and to "strict construction" for all our light on the subject! More than all this, it would be to deny that even strict construction could guide us—for the words "*slavery*" and its "*abolition*" are neither more plain nor emphatic, than the words *injustice* and *justice*, and a "strict construction" of the former could not be more explicit than a strict construction of the latter.

Men may say, if they please, that the *letter* of the *New Testament* does not abolish *slavery*, though such a statement



would not evince a very minute or extensive acquaintance with *the power of human language, the meaning of words*. But very few are so hardened or obtuse as to deny that the "*spirit*" of the New Testament abolishes slavery. It is scarcely less evident that the "*spirit*" of the Federal Constitution abolishes slavery, or at least, authorizes and requires the Federal Government to do so.

"SPIRIT OF THE CONSTITUTION," *As revealed in the structure of the Federal Government.*

The "*spirit*" of every Constitution of civil government is indicated by the very frame-work of the government it creates or authorizes. The "*spirit*" of the French Constitution is seen in the French Government. The "*spirit*" of the British Constitution is seen in the distinctive features of the British Government. If the "*spirit*" or any Constitution of government be monarchical, the government will be essentially monarchical. If the "*spirit*" of the Constitution be aristocratic, the structure of the government will be aristocratic. If the "*spirit*" of the Constitution be democratic, the form of the government will be democratic. And if the "*spirit*" of the Constitution partake of a mixture of these three elements, the form of government will exhibit a like mixture. If the "*spirit*" of any Constitution be "*pro-slavery*," *that spirit too*, will be revealed in the *structure of the government*. Let the "*spirit*" of the Constitution be tested by this rule.

In what particular does the *structure* of the Federal Government betray the pro-slavery "*spirit*" of the Constitution that gave birth to it? Wherein does it establish, or even recognize that "*peculiar*" *caste* that now claims its sanction and its guaranty? In what part of the instrument do you find any mention, either of slavery, or of slaves—of "*white*" citizens, or "*people of color*?" In a former chapter we have shown that not even the *condition* exclusively, or distinctively of the slave, is described in the clause commonly cited for that purpose.

No distinction of *color*, or of *race*, or *parentage*, is specified in the Constitution, among the qualifications, either of *voters* under the Constitution for the highest officers of the Government, nor among the qualifications of the officers themselves. There is nothing in the Constitution that prevents negroes from voting for President, Vice-President, and members of Congress, on the same level with white citizens, and in many of the States, they *do* vote for those officers. There is nothing in the Constitution that disqualifies a negro

from holding any office under the Federal Government, from the highest to the lowest, civil, military, legislative, judiciary, or executive. A negro may be constitutionally appointed Chief Justice of the United States, or Minister Plenipotentiary to any foreign Court. If the people of any congressional district in this Union should choose a negro to represent them in the House of Representatives of the United States, he would be constitutionally entitled to a seat there. If the legislature of any State in this Union should select a negro to represent the State in the Senate of the United States, the Federal Constitution secures him a seat there, on an equal footing with a Webster, a Clay, or a Calhoun. And if the People of the United States or a majority of them, (the majority of the people of the thirteen non-slaveholding States, for example) should choose a full blooded American born negro, to be President of the United States, he would be the constitutional President, holding the same station and wielding the same powers held and wielded by a Washington, a Jefferson, or a Madison.

This feature of the Constitution is the more remarkable on account of its agreement with the Articles of Confederation that preceded it, and especially when it is remembered that in the Congress of 1778, in which those Articles were framed, a motion was *unsuccessfully* made to *amend* the phrase "free inhabitants" by inserting between them the word "white"—thus deliberately settling the question that the CASTE of COLOR should have NO PLACE nor recognition in the National "Compact." And we have no account of any attempt in the Federal Convention of 1787, to engraft upon the new Constitution, the contrary principle.

Thus absolutely certain is it that the "SPIRIT OF THE CONSTITUTION" is the spirit of human equality, directly and specifically hostile to the spirit of caste, especially to a caste founded on the circumstance of *color*, of *blood*, of *race*, or of *descent*. Contrast this "spirit of the Constitution" with that other spirit that cries out "*amalgamation*" at every attempt to make the State Constitutions, even in the non-slaveholding States, *correspond* with the Constitution of the United States in this respect. Then say whether the "spirit of the Constitution" be not identical, in this vital particular, with that spirit of thorough "abolition" that is denominated the 'spirit of fanaticism' and the "spirit of amalgamation" now!

Who does not intuitively know that if a "guaranty" of slavery, or a "compromise" with it were to have been introduced into the Constitution of the United States, one of

the most essential points, one of the most ready expedients (and the one least calculated to meet with effective opposition) would have been the introduction of the word "white" among the qualifications of voters and officers? If *even this* could not be attempted, with a hope of success, *what could?* Who does not know that one of the highest and most difficult points of attainment, even in an "ultra modern abolitionist," a point proverbially difficult to be reached, is the point of harmonious affinity with the "spirit of the Constitution," as thus revealed?

The "*spirit of the Constitution*" utterly abjures the *caste itself* upon which the whole *slave system is based*, takes the despised negro by the hand, and seats him indiscriminately around the ballot box among his paler brethren, and holds out before him, to incite his manly emulation, the highest summits of official station in her power to bestow, the highest seats in the National Government itself. And are we to be told that this *same* "spirit of the Constitution" has "guarantied" the perpetual degradation and chattelhood of the colored man—that it authorizes the hunting of him, through all the States in the Union, "*without due process of law*"\* or jury trial, as though he were a wild beast, or a noxious reptile? Did ever effrontery itself, before, adventure to urge such a claim as this?

With the feature of the Constitution just noticed, the whole structure and organic framework of the Federal Government agrees, and without that feature that structure *could not be* what it confessedly *is*, and what it is the pride of every intelligent and high minded American to *represent it*,—a FREE Government—founded on the supremacy of THE PEOPLE, the exclusion of MONOPOLIES, the annihilation of PRIVILEGED ORDERS, and the absence of CASTE.

The same "spirit of the Constitution" that puts the colored man upon a level with the white, disdaining even an allusion to any distinction between them, is the spirit that is manifested in its speaking in the name of THE PEOPLE, (the whole of them, not a favored class) its derivation of the government *from* the people, the election of the officers of the government, either directly or indirectly, *by* the people—the accountability of the highest officers *to* them, including the liability of the President himself to impeachment and trial, the provisions for frequently returning elections, the general eligibility of the people to office, without dis-

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\* This one inhibition of the Constitution, by the bye, is enough to settle the unconstitutionality of the Act of Congress of 1793, and of the late decision of the United States Court in the case of *Prigg vs. Pennsylvania*.



inction of caste—the reservation *to* the people (either directly or through their State Governments) of all the powers not delegated in the Constitution itself. These features of the Federal Government, the glory and the boast of every American, can not be separated from the feature that constitutes the same government the unalterable and uncompromising enemy of the *cord of caste*, and consequently of that abominable SLAVE SYSTEM with which that caste is identified, and by which it is created and preserved.

If the “spirit of the Constitution” has provided for us “a republican form of government,” then that “spirit of the Constitution” has entered into no “compromise” with slavery, and, so far from providing for any “guaranty” of *slavery*, has “guarantied to every State in this Union a republican form of government” by the definition and on the model of *the Federal Government itself, a definition and a model that places the black man on an equality with the white.*

Before dismissing this topic, it may be proper to notice *one* fact, in the structure of the Federal Government, that has been claimed as being friendly to slavery. The apportionment of direct taxes and representation has been considered in the light of an arrangement granting an undue share of political power to the slave States, giving them an advantage over the rest, and thus holding out as it were, a premium to slavery over freedom. But the abolition of slavery by the slave States would greatly increase their political power, as they might then make citizens of all that class of their population, of whom they can now reckon only three-fifths, but might then reckon the whole. So that the present *reduced* rate of three-fifths *instead* of the whole, has been regarded, by some, as a *rebuke* and *discouragement* of slavery, instead of a premium bid in its favor.

This question, we have no occasion to discuss, now. We need not deny that the arrangement is unequal, in its bearing on the free labor States, that its operation gives the slave States more power than they ought to possess, and that that power is wielded in support of slavery. But from this it does not follow that “the spirit of the Constitution” contemplated this result, or could look upon it with favor. The results of particular business arrangements and details, are often the opposite of those contemplated and intended by those who enter into them. No one, at that time, supposed that slavery could continue to the present period, and its perpetuity could not have been the object of that provision. Could it even be proved that such was the design of



some in the Convention, who succeeded in shaping the clause to their liking, it would not follow that a majority of the Convention adopted it with that view. And if they did, it would not follow that THE PEOPLE (including those of the North,) *for whom* the paper was drafted, and who adopted it, understood and approved it, in that light, or for such an object. We are litigating before a Court, *now*, that can look beyond the mere *words*, to the "*spirit*" and *intent*. And it would require strong evidence to prove that the majority of the people *intended* to put themselves under the control of the petty oligarchy that now rules them! Or if it *were* so, the "sober second thought" of their famous "*amendments*" for the better security of freedom, cuts off *whatever* of a pro-slavery character might be detected in this clause of the original instrument.

And waiving even all this, we might cut the matter short by a dilemma that may serve to silence the claim under this clause. This provision either harmonizes with *all the other* features that characterize the structure of the Federal Government, or it *does not*. If it *does*, it can not be claimed as a "guaranty" or even a "compromise" in favor of slavery. If it *does not*, why then it becomes an excrescence, an anomaly; and this isolated, obscure, and litigated clause, has to be disposed of; (like *other* incongruities) in the light of those outstanding, unambiguous, unmistakable features, by which "*the spirit of the Constitution*" is to be ascertained. This is the very process of construction or interpretation, by the "*spirit of the Constitution*;" for this very purpose, we are now in Court, and shall proceed to cite *other* evidences in proof that the "*spirit of the Constitution*" is what we claim it to be.

#### "SPIRIT OF THE CONSTITUTION" IN ITS CARE OF PERSONAL RIGHTS.

The *spirit* of any Constitution of civil government is not more clearly discerned in the structure and form it gives to the government itself, than in the bearing of its provisions upon the security and sanctity of individual, *personal rights*. Here lies the pith and the "*spirit*" of civil government, after all. A government is good or bad, free or despotic, accordingly as its provisions are adapted, either to protect and to secure the *rights of individual human beings*, (especially those most in need of protection) or, on the other hand, to invade and trample upon those rights, or leave them insecure, or wink at the existence of abuses, usages, laws, and

customs, by which those rights are taken away, denied or impaired.

Now *slavery*, as it exists in the American slave States, is the most perfect possible specimen of a system, upheld by government, in which *all the rights* of its victims are trampled down and denied, and the liberties of *all others* made insecure.

To learn then, whether the “spirit of the Constitution” is a spirit that can enter into a “compromise” with slavery, or “guaranty” its existence, we have only to learn by its provisions what value it places upon *individual security—personal rights*.

And here, we might cite again, the specifications of the Preamble, if it would not seem a repetition to do so. But there are minuter provisions in the instrument, that we must not overlook—provisions utterly at war, both in their letter and their spirit, with the usages that constitute slavery and that are requisite to sustain it.

The Constitution of the United States guaranties those inestimable and inalienable *rights of conscience* which slavery wholly denies its victims and can not afford to secure—does not permit to be exercised—by *any* portion of the citizens in those States where it bears sway. [Amendments, Article 1.]

The Constitution provides for “*the freedom of speech and of the press*.” [Amendments, Article 1.] But freedom of speech and of the press are not only prohibited to slaves, but to all who plead their cause, or disseminate the fundamental principles of human rights. This is done on the express ground, and for the known and admitted reason that slavery can not exist where those rights are thus exercised and maintained.

The Constitution expressly recognizes “the right of the PEOPLE” (without distinction of caste or color,) “peaceably to assemble, and to petition the Government for a redress of their grievances,” [Amendments, Article 1.] But not only the slave States, but the Congress of the United States, have directly and explicitly denied the right of slaves (the mass of the laboring people in half the States) to petition Congress, they have virtually and practically denied the right of petition to all who petition for the abolition of slavery, and this has led, in one memorable instance, (the short session of 1841,) to the suspension of the right of petition, in all citizens, and on all subjects, upon the good pleasure of the President, as indicated in the topics of his Message! All this has been done on the assumption of the

correctness of those prevalent Constitutional expositions that make the Federal Government the patron and the servant of the slave power. But since the "spirit" and letter of the Constitution are grossly and manifestly outraged by these proceedings, we have abundant evidence that the "spirit of the Constitution" and the spirit of slavery are antagonisms that can never be reconciled.\*

We must remember here, that these constitutional provisions for the security of personal freedom, are contained in the first article of the *Amendments*, and we must bear in mind that *amendments* exert a corrective and repealing power over all the provisions of the *original instrument* which may be found to conflict with them. But *all* the specifications that have ever been claimed as being *favorable to slavery* are contained in the *original instrument*, and *not* in the Amendments. So that if the Constitution as formed by the Convention of 1787, failed to breathe the "spirit" of security to personal rights, and of consequent hostility to slavery, yet the PEOPLE afterwards took care to infuse that "spirit" into the organic law of their Federal Government, through their Amendments.

On the same high vantage ground as "AMENDMENTS,"

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\* In further corroboration of the fact that the commonly prevalent constructions of the Constitution lie at the bottom of all these assaults, in high places, not only upon the right of petition, but upon the right to assemble peaceably for that purpose, and to discuss public measures, as well as the freedom of speech and of the press, we make a few citations from the speeches, &c., of the constitutional expositors, so confidently relied upon.

"Discussion implies deliberation, deliberation is preliminary to action. *The People of the North have no right to act upon the subject of southern slavery, and therefore THEY HAVE NO RIGHT TO DELIBERATE—NO RIGHT TO DISCUSS.*"—Clay's Speech, 1837.

Fresh evidence that the prevalent expositions of the Constitution can not, with safety be received by a free People! The late President Harrison, in his famous speech at Vincennes, May 25, 1835, and approvingly referred to, in his letter to James Lyons, June 1, 1840, as containing the sentiments he still held, goes into the argument at length. He first assumes that the Constitution provides for the return of fugitive slaves, &c. &c. He then adds:

"Now can any one believe that the instrument which contains provisions of this kind," &c. &c., "should, at the same time, authorize (the citizens of non-slaveholding States) to assemble together, to pass resolutions and adopt addresses, not only to encourage the slaves to leave their masters, but to cut their throats before they do so. I insist that if the citizens of the non-slaveholding States can avail themselves of the article of the Constitution which prohibits the restriction of speech or the press to PUBLISH ANY thing injurious to the rights of the slaveholding States, that they can go to the extreme I have mentioned, and effect anything further that writing and speaking could effect. But, fellow-citizens, these are not the principles of the Constitution. Am I wrong in applying the term *unconstitutional* to the measures of the emancipators?"

Gov. Marcy, of New York, and Gov. Everett, of Massachusetts, in their messages to the Legislatures of those States, took similar ground, suggesting the propriety of suppressing anti-slavery meetings and publications by law. Such are the conclusions deduced from the premises of a constitutional "compact," "compromise" and "guaranty" of slavery. The security of American liberty rests in the fact that the premises are unsound. Not even the gigantic power of John Quincy Adams have yet sufficed to restore the right of petition, while such constitutional expositions prevail. The rights of petition, free speech, and free press, would indeed be strange and incredible anomalies, in a government pledged to tolerate and even to sustain slavery!



overtopping and overlooking, with a supervisory eye, *each* and *every one* of the provisions claimed as “guaranties” or “compromises,” by the slave power, we find likewise the provisions, forbidding the deprivation of life, *liberty*, or property, in the case of any “*person*” “without due process of law,” (Amendments, Article 5,) securing “in all criminal prosecutions,” the “right” of the accused to “a speedy and public trial by jury,” &c. &c., (Amendments, Article 6,) securing the same right of jury trial “in suits at Common Law, when the value in controversy shall exceed twenty dollars,” (Amendments, Article 7,) the inhibitions of “excessive bail—excessive fines—cruel and unusual punishments,” (Amendments, Article 8,) the recognition of rights in the People, not particularly enumerated in the Constitution, (Amendments, Article 9,) the reservation to the *People*, (directly or through the States,) of powers not delegated to the United States, by the Constitution. Is there any thing doubtful or ambiguous in the “SPIRIT” of constitutional provisions like these? Or does that “spirit” harmonize with such constitutional expositions as we find embodied in the absurd enactment of 1793, and the still more preposterous decision of the Supreme Court, in the case of Prigg versus Pennsylvania? Had the “*spirit*” prevailed, in that Congress and in that Court, which could not permit the hazard, to a citizen, of the loss of “twenty dollars,” in a litigation, in a Court of law, without a jury trial, would the civilized world have been astounded with the spectacle of a professedly free nation, not one citizen of whom is held legally free from a seizure of his person by any individual slaveholder “*without* due process of law,” and the reduction of him to a chattel personal for life, with the “attainder of blood” in his posterity forever, and all this *without benefit of a jury trial*? And without the “reserved right” either of “the People” or “of the State,”\* to interpose the protection of an act providing, in such cases, a trial by jury? What says “*the spirit of the Constitution*” to questions like these?

There is *another* authoritative AMENDMENT of the Constitution sufficient, of itself, to annihilate *whatever* of the poison of a pro-slavery “compromise” or “guaranty”—

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\* “THE RESERVED RIGHTS OF THE STATES” are magnified into prodigies, when the right of the slave States to chattelize American citizens, and to send their biped blood hounds into every free State, to kidnap them, is to be maintained! But the “reserved rights of the States” amount to nothing at all, when the rights of the free States to *protect their own citizens* (by “jury trial,” by “*habeas corpus*,” by “due process of law,”) against unlawful seizures are to be judicially put down! Thus must it needs be, *so long as the present constitutional expositions obtain*. A pro-slavery Constitution could do nothing less!



more or less virulent—might have been ambiguously smothered into the original “compact.” In the multiplicity of our constitutional weapons against slavery, we had overlooked it while before the Court of “strict construction,” in our second chapter. But we must give it place, now.

“The right of the PEOPLE to be SECURE in their PERSONS, houses, papers and effects, against unreasonable searches and SEIZURES, shall *not be violated*; and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the *place* to be searched, and the *persons* or things to be *seized*.”—*Amendments, Article 4.*

Whether construed by “strict construction” or standing in its own light, as a specimen of the “spirit” of the Constitution itself, no provision could be more significant and conclusive than this. Had it been penned with the special design to prevent and forever foreclose and annul any such legislation as the act of Congress of 1793, or to brand with the stamp of unfaithfulness to the Constitution such a judicial decision as that of the United States Court, in the case of *Prigg vs. Pennsylvania*, what could have been penned, more to the point? “*The People*” and no particular caste of them are to be thus secured from “unreasonable seizures.” Yet the Act of Congress, and the judicial decision, leaves *no class of the people* “secure” from the most “unreasonable” and felonious “seizures” without even the formality of any “warrant” at all, in which a description of “the place to be searched, and the *persons* or things to be seized” could be introduced.

To the same purport, as indicative of the “spirit of the Constitution” in its care of individual rights, we may cite some further provisions of the original instrument itself. “The privilege of the writ of habeas corpus shall not be suspended, unless when, in cases of rebellion or invasion, the public safety may require it.” (Art. I., Sec. 9, Clause 2.) But no “privilege of the writ of habeas corpus” or any thing else comes to the benefit of any one suspected of the crime of having descended from a slave mother or of any person, man, woman, or child, white or colored, whom any slaveholder may choose and presume (*without* presentment of jury, or writ of magistrate) to claim and to seize as his *slave*! This, in substance, is the decision of the Supreme Court of the United States, under the Act of Congress of 1793; and the decision and the Act are both based upon the common construction of the provision in the United States Constitution, (Art. 4, Sect. 2, Clause 3,) concerning “persons held to service and labor.” In our Chapter II. we have shown that the *words* of this provision, on the

principles of "*strict construction*," furnish no warrant for such an Act of Congress—for such a decision of Court. Appeal has accordingly been made to the "SPIRIT OF THE CONSTITUTION"—forsooth! to reverse the decision! And what has "THE SPIRIT OF THE CONSTITUTION" to say, *on this question*? How is it? When the kidnapper of the South, with his bull dogs, (biped or quadruped,) come prowling around our Northern villages and hamlets, is it a "*case of rebellion or invasion*" if we refuse to submit to them, or even if we trap them or trip up their heels? Does the "public safety require" us to be dragged away, without indictment, or "due process of law" and sent to the Southern rice-swamps without a jury, and without "the privilege of the writ of habeas corpus?" Does "the spirit of the Constitution" agree with this? If it *does*, let the People understand, that they may appreciate its benefits! If it does not, let the "spirit of the Constitution" be better understood, and no longer identified with the spirit of legalized Lynch law, and made by decision of the Supreme Court, the standing commission of the man-thief, setting all the sacred guaranties and safeguards of personal liberty at defiance!

"The trial of all crimes except in case of impeachment, shall be by jury, and such trial shall be held in the State where the said crimes shall have been committed," &c.—*Article III, Sec. 2, Clause 3.*

"Treason against the United States shall consist only in levying war against them, or in adhering to their enemies, giving them aid and comfort. No person shall be convicted of treason unless on testimony of two witnesses to the same overt act, or on confession in open Court."—*Art. III, Sec. 3, Clause 1.*

The "trial by jury" is here recognized, in the original instrument itself. And treason is to be defined and punished by the most liberal and lenient rules. What a contrast to the sanguinary and summary codes of slavery! Expositors of the Constitution who make it a "compromise" or a "guaranty" of slavery, have gravely defined "*treason*" to consist in freedom of speech and of the press directed against slavery, or in discussion of its character! At every point, "the spirit of the Constitution" and "the spirit of slavery" come in harsh collision. Who can conceive of the very "*spirit of this Constitution*" making a "compact," a "compromise" with slavery—taking it by the hand—making amicable terms with it—and signing a "guaranty" of the inviolability, the perpetuity of its Lynch legislation—its enacted abrogation of all law—its annihilation of the *same rights* that the "spirit of the Constitution" was *so solicitous to protect*? No marvel that those who can quote the "spirit of the Constitution" in favor of slavery, can likewise quote

the spirit of the Saviour's golden rule, for the same purpose !

"SPIRIT" OF CONSTITUTIONAL PROVISIONS HOSTILE TO  
SLAVERY.

Full justice to "*the spirit of the Constitution*" as exhibited by the distinguishing characteristics of its fundamental provisions, could not be done without referring distinctly to those provisions which we have a right to claim as being, both in their letter and spirit directly levelled against the specific things wherein slavery consists, and providing for their removal :—referring, likewise, to those specific grants, to Congress, of the Constitutional powers by means of what that particular category of evils may be removed.

Under this head we might class some of the provisions of the Constitution already adverted to, particularly the provision, (Amendments, Art. 5.) that "No person shall be deprived of life, liberty, or property, without due process of law," and likewise Amendments, Art. 4. Scarcely less significant, in their bearing upon slavery, are the guaranties of the rights of conscience, freedom of speech and of the press, &c. But we allude now, more especially, to the guaranty, to every State in the Union, of a republican form of government, the restrictions of State power inhibiting orders of nobility, oligarchies, impairing the obligation of contracts, laws of attainder, State wars, troops in time of peace, and withholding the immunities of citizens from citizens of other States: connected as these provisions are with the conferring of ample powers upon Congress for regulating both foreign and domestic commerce, including the commerce in slaves, exclusive legislation over the Federal District, the needful regulation and government of Territories, power to carry out all the provisions and objects of the Constitution, but no power to establish or to maintain slavery in District, Territory, or elsewhere. Of the "*spirit*" manifested in these provisions there can be no rational doubt.

It may be objected, perhaps, to our citing these provisions in proof of the anti-slavery spirit of the Constitution, that some of them are among the disputed points for the proper construction of which we are seeking, in the "*spirit of the Constitution*" (when ascertained) an umpire. So that we must not admit them as witnesses in a case wherein they themselves are to be tried. Be it so, then, that these features of the Constitution are to be put on trial before the Court, and, as parties concerned, must not be witnesses in their own cause. Having a case at Court, they have an

undoubted right to *appear* there, and in their own proper names and habiliments. If the bare announcement of their names, the cut of their garments, their countenances, form, gait, and shibboleth of speech, should reveal to the Court and jury their affinity with the “spirit of the Constitution” and dissimilarity from the spirit of slavery, why—there is no help for *that*. The old fables may represent Justice as being blindfold, but Judges and jurors, in *this* Court, are permitted to have *eyes*.

### THE SPIRIT OF THE CONSTITUTION IS THE SPIRIT OF THE COMMON LAW.

Another internal evidence that the “spirit of the Constitution” is the spirit of LIBERTY, in other words, the spirit of uncompromising hostility to SLAVERY, is to be found in the fact that it is identical in its character and arrangements, with the “spirit” of the COMMON LAW, in the presence and at the touch of which, *slavery* instantly expires.

We will, *first*, establish the fact that the “spirit of the Constitution” is identical with the spirit of the COMMON LAW, and, *then*, the fact that the Common Law never tolerates, for a single moment, or under any conceivable circumstances, the existence of slavery.

“The Common Law is the grand element of the United States Constitution. All its *fundamental* provisions are instinct with its spirit; and its existence, principles, and PARAMOUNT AUTHORITY, are presupposed and assumed throughout the whole. The Preamble of the Constitution plants the standard of the Common Law immovably on its foreground:—

“We, the People of the United States, in order to ESTABLISH JUSTICE, &c., do ordain and establish this Constitution,” thus proclaiming *devotion* to JUSTICE, as the controlling motive in the organization of the Government, and its secure establishment the chief end of its aims. By this most solemn recognition, the COMMON LAW, that grand legal embodiment of ‘JUSTICE,’ and fundamental right—was made the ground work of the Constitution, and intrenched behind its strong munitions. The second clause of Sect. 9, Art. 1; Sec. 4, Art. 2, and the last clause of Sect. 2, Art. 3, with Articles 7, 8, 9, and 13, of the Amendments, are also express recognitions of the COMMON LAW as the PRESIDING GENIUS of the Constitution.”—*Weld's Power of Congress*, &c. page 13.

“Who needs be told that slavery makes war upon the principles of the Declaration of Independence and the *spirit of the Constitution*, and that these and the principles of *Common Law* gravitate towards each other with irrepressible affinities, and *minge into one*? The *Common Law* came here with our pilgrim fathers; it was their birthright, their panoply, their glory, and their song of rejoicing in the house of their pilgrimage. It covered them in the day of their calamity, and their trust was under the shadow of its wings. From the first settlement of the country, the genius of our institutions and our national spirit have claimed it as a common possession, and exulted in it with a common pride. A century ago, Gov. POWNALL, one of the most eminent constitutional jurists of colonial times, said of the COMMON LAW—‘In all the colonies, the Common Law is received as the *foundation and main body of their laws*.’ In the Declaration of Rights made by the Continental Congress, at its first session, in ’74, there was the following resolution :



'Resolved, that the respective colonies are entitled to the COMMON LAW of England, and especially to the great and inestimable privilege of being tried by their peers of the vicinage according to the course of *that law*.' Soon after the organization of the General Government, Chief Justice Ellsworth, in one of his decisions, upon the bench of the United States Supreme Court, said, 'the *Common Law* of this country remains the same as before the revolution.' Chief Justice Marshall, in his decision in the case of *Livingston vs. Jefferson*, said, 'When our ancestors came to America, they brought with them the *Common Law* of their native country, so far as it was applicable to their new situation, and I do not conceive that the revolution in any degree changed the relations of man to man, or the law which regulates them. In breaking our political connection with the parent State, we did not break our connection with each other.' [*Hall's Law Journal, New Series.*] Mr. Duponeau, in his 'Dissertation on the Jurisdiction of Courts, in the United States,' says, 'I consider the *Common Law* of England, the *jus commune* of the United States. I think I can lay it down as a correct principle, that the COMMON LAW of England, as it was at the time of the Declaration of Independence, still continues to be the NATIONAL LAW OF THIS COUNTRY, so far as it is applicable to our present state, and subject to the modifications it has received here, in the course of half a century.' Chief Justice Taylor of North Carolina, in his decision in the case of the State vs. Reed, in 1823, *Haw's N. C. Repts.* 454, says, 'A LAW OF PARAMOUNT OBLIGATION TO THE STATUTE was violated by the offence—COMMON LAW, founded on the LAW OF NATURE, and confirmed by REVELATION.' The *legislation* of the United States abounds in recognitions of the principles of the Common Law, asserting their *paramount binding power*. Sparing details, of which our national State papers are full, we illustrate by a single instance. It was made a *condition* of the admission of Louisiana into the Union, that the right of trial by jury should be secured to all her citizens—the United States Government thus employing its power to enlarge the jurisdiction of the COMMON LAW as its great REPRESENTATIVE."\*—*Wells's Power of Congress*, &c., page 14.

Having thus identified the "spirit of the Constitution," and (along with it) the "spirit" of American Jurisprudence, with the "spirit" of the Common Law, we will now look at the bearing of this spirit of the Common Law upon the American Slave System.

### SPECIMENS OF COMMON LAW.

"THE COMMON LAW KNOWS NO SLAVES. Its principles annihilate slavery wherever they touch it. It is a *universal, unconditional, abolition act*. The declaration of Lord Chief Justice Holt, that, 'BY THE COMMON LAW NO MAN CAN HAVE PROPERTY IN ANOTHER,' is an acknowledged axiom, and based upon the well known *Common Law* definition of PROPERTY, viz: 'The subjects of dominion or property are THINGS, as *contra distinguished from PERSONS*.'"—*Ib.* page 13.

The following are also among the maxims of the Common Law:

"The law favors liberty."—*Wood's Inst. Book 1, chap. 1, page 25.*—*Coke's 1st Inst. Book 124, and 2d Inst. 42, 115.*

"The law favo'reth a man's person before his possessions."—*Noyes' Maxims, pages 6 and 7.*

"Whenever the question of liberty seems *doubtful*, the decision must be in favor of liberty."—*Digest Lib. 20, Tit. 17, Leg. 20.*

\* Another fact, conclusive of the illegality of slavery in Louisiana, for this was equivalent to a condition that she should abolish slavery. In this particular, at all events, Congress seems to have recognised its right and duty to secure to Louisiana, "a republican form of government."—*Author.*

"The law therefore which supports slavery and opposes liberty, must necessarily be condemned as cruel, for every feeling of human nature advocates liberty. Slavery is introduced through human wickedness, but God advocates liberty, by the nature which he has given to man. Wherefore, liberty torn from man, always seeks to return to him, and it is the same with every thing which is deprived of its native freedom. On this account it is, that the man who does not favor liberty, must always be regarded as unjust and cruel; and hence the English law always favors liberty."—*Chancellor Fortescue, de laudibus legum. chap. 42, page 101.*

"Law favo<sup>r</sup>eth liberty and dower. Law regards the *person* above his possessions—*life and liberty, most.*"—*Principia Legis et Equitatis. p. 56.*

"Those rights which God and nature have established, and which are therefore called natural rights, such as LIFE and LIBERTY, need not the aid of human laws, to be more effectually vested in EVERY MAN, than they are. Neither do they receive any additional strength, when declared by the municipal laws, to be inviolable. On the contrary, NO HUMAN LEGISLATION HAS POWER TO ABRIDGE OR DESTROY THEM, unless the owner shall himself commit some act, that amounts to forfeiture."—*Introduction, Sect. 2.*

"The law of nature, being coeval with mankind, and dictated by God himself, is of course superior in obligation to any other. It is binding over all the globe, in all countries, and at all times. No HUMAN LAWS HAVE ANY VALIDITY, IF CONTRARY TO THIS, and such of them as are valid, derive all their force, and all their authority, mediately or immediately, from this original."—*Ib.*

"The inferior law must give place to the superior—MAN's laws to God's laws."—*Noyes' Maxims.* If therefore any statute be enacted, contrary to these, it ought to be considered of NO AUTHORITY in the laws of England."

"Usage and custom, generally received, have the force of law."—*Hale's History of Common Law, p. 65.* "Because custom, derived from a certain reasonable cause, takes the place of law."—*Littleton Lib. 2, 10. Sect. 149.*

"But when custom is adopted without reason, it ought rather to be called usurpation than custom." "Because, in judging of customs, strength of reason is to be considered, and not length of time. The reason which supports them ought to be regarded, and not the length of time, during which they have prevailed."

"Two incidents are indispensable to validity of custom or usage. 1st. A reasonable commencement, (for all customs or prescriptions which are against reason are void.) 2d. Continuance without interruption."—*2d Inst. p. 140.*

"Evil customs ought to be abolished."—*Littleton 2d Inst. 2, chap. 2, p. 141.* On which Sir Edward Coke remarks, that "every use (or custom) is evil, which is against reason."

"Where the foundation is weak, the structure falls."—*Noyes' Maxims, p. 5.* "What is invalid from the beginning, can not be made valid by length of time."—*Ib. p. 4.*

"The reasonableness of law is the soul of the law."—*Jenks. Cent. 45.*

"This law is written upon the heart of every man, teaching him what to choose and what to refuse. What is written by reason in the heart, can not be effaced: neither is it liable to change, either from place or time, but ought to be preserved every where, by all men. For the laws of nature are immutable; and the reason of their immutability is this, that they have for their foundation, the nature of things, which is always and every where the same."—*Doct. & Stud. p. 2.*

"Against these, there is no PRESCRIPTION, OR STATUTE, OR USAGE; and should any be ENACTED, they WOULD NOT BE STATUTES, OR usages, but CORRUPT CUSTOMS."—*Ib. p. 5.*

"If any human law shall allow or require us to commit it [murder, mentioned by way of illustration,] we are bound to transgress that human law, or else we must offend both the natural, and the divine."—*Blackstone.*

"If it be found that a former decision (respecting a point in Common Law,) is manifestly ABSURD and UNJUST, it is declared, *not* that such a sentence was BAD law, but that it is NOT law."—*Ib.*

"It is generally laid down that *Acts of Parliament*, contrary to reason, are VOID."—*Ib.*

"Prof. Christian, the distinguished annotator of Judge Blackstone, decides that a Judge ought to resign his office, rather than allow himself to be the organ of the execution of an iniquitous law."

"Derived power can not be superior to the power from which it is derived."—*Noyes' Maxims*, p. 3.

"The *lawful* power is from God alone, but the power of *wrong* is from the devil and not from God; and whose soever work a king shall do, his servant he is, whose work he does. Wherefore, when he does justice, he is the minister of the Eternal king, but when he does unrighteousness, he is the servant of the devil."—*Bracton*, Lib. 3, Chap. 9, p. 106-7.

"For he is called a king (a ruler,) for ruling righteously, and not because he reigns. Wherefore he is a king, when he governs with justice, but a tyrant, when he oppresses the people committed to his charge."—*Ib.*

"When an act of Parliament is against common right or reason, or repugnant, or impossible to be performed—the common law will control it, and adjudge such act to be void."—8 *Coke's Reports*, 118.

"An act of Parliament may be void from its first creation, as an act against natural equity—for *jura naturæ sunt immutabilia—sunt leges legum*—(the laws of nature are immutable—they are the laws of laws.) But this must be a very clear case—and judges will strain hard rather than interpret an act void, *ab initio*."—*Hobart's Reports*, p. 87.

See also Bascon's abridgment "Statute," A. Vol. 6, p. 363. \*

### POWER OF THE COMMON LAW.

The reader will please to understand that he has been perusing extracts, *not* from the "fanatical" proceedings of an anti-slavery Convention, but from the venerated and authoritative volumes of the COMMON LAW—the same Common Law that is so manifestly the basis and ground work of all the *fundamental* provisions of the *Constitution of the United States*: the same Common Law in which every man finds the chief guaranty of his rights. If we can understand the "spirit" of the *Common Law*, we can understand the "*spirit of the Constitution*," by which we are to interpret and construe its disputed provisions. How much of a "compromise" or "guaranty" of slavery, "the spirit of the Constitution" will sanction, the reader can judge.†

These principles of the Common Law, being connected with the *British Constitution* as they are with *ours*, abolished slavery in Great Britain, by the decision of Lord Mansfield, in the Somerset case, in 1772. Is the thought to be admitted, for a moment, that the "spirit of the Constitution"

\* "Judge McLean of the United States Supreme Court, has also recently decided that statutes against fundamental morality are void. Indeed, no principle of the common law is better settled, or can be supported by higher or more numerous authorities."—*Christian Freeman*, Sept. 19, 1844.

† We will likewise ask the reader to study carefully these Common Law maxims, to fix them in his memory, and note the page for future reference. We shall have occasion to refer to them again, for other purposes than to ascertain the spirit of the Constitution of 1787-9. They have an independent and inherent power, in themselves.



of the United States is *less* friendly to liberty, *less* potent for its protection, *less* hostile to despotism, or *less* efficient for its overthrow—in a word, *less republican*, than the Constitution of a limited monarchy, like Great Britain? Did the American Revolution, and the Declaration of Independence retard, or thrust back, the march of human freedom and human improvement, instead of urging it forward?

The Constitution of the *United States*, both in its letter and its spirit, is moulded and fashioned upon the model of the Common Law, and instinct with its life-inspiring spirit, throughout. Whereas the Constitution of *Great Britain*, that, in the structure of the government, received its distinctive shape and texture before the principles of the Common Law began to be distinctly understood, received afterwards, into its old stock of monarchical and aristocratic ingredients, but comparatively few grains of the democratic principles of the Common Law—yet they proved sufficient to leaven the whole lump with the spirit that abolished negro slavery, first in the Island itself, and afterwards in its dependencies, Asiatic and American. By our dismemberment from Great Britain, are we then to become less free and secure than British subjects? While “slaves can not breathe in England” nor in her colonies, can freemen find no security in America? Have we fallen so low in the sight of all the nations?

No! Thus it can not be. Thus it shall not be. Thus, *constitutionally*, LEGALLY, it IS NOT! Slavery in these United States, is sheer usurpation, and abuse, from beginning to end; a nuisance, demanding judicial, (not to say legislative,) removal. Every slave held in America, is *unlawfully* held, and in defiance of AMERICAN CONSTITUTIONAL LAW. One single consideration is conclusive of the whole matter, and it is simply this:—The Constitution of the United States, yes!—the Constitution of 1787–9, is identical in its spirit with the spirit of the COMMON LAW. It is the legitimate child, it is the well constructed instrument of the Common Law. It is the embodiment of the Common Law, reaffirming its provisions, and constructing and commissioning the Federal Government to carry those provisions into effect. [To say that it is not *this*, is to say that it is a mere confederacy, and no civil government at all.] And the Common Law, wherever recognized, wherever permitted to touch the statute book, to enter the Court of Justice, or to imprint the soil with the sole of her foot, is one uncompromising and universal act of emancipation and abolition. To say that there can be *constitutional* slavery in the United



States—slavery tolerated by the Constitution—is the same thing as to say, that there is COMMON LAW slavery in the United States; an absurdity that, in its own proper form, no sane man, perhaps, has ever yet been found to utter.

Are we traveling beyond the record? Anticipating a decision beforehand, while our argument is unfinished? Well, then, let us summon further witnesses. If the chimera of constitutional slavery has as many lives as popular tradition attributes to another “domestic” animal among us, with its stealthy movements and its sharp claws, there are weapons enough in reserve, to dispatch it.

### SECTION III.

“SPIRIT OF THE CONSTITUTION” AS ATTESTED BY HISTORY,  
AND BY EMINENT CIVILIANS AND JURISTS.

If the shape of the Constitution, its gait, its countenance, its air, its sayings, its alliances, its devisings, and its *doings*, have not sufficiently manifested its “*spirit*,” we will now call in the aid of witnesses, who are reputed to have stood nearer to it, and to know more about it, in its earlier days, in its origin, its birth-place, its parentage, its nursing and swaddling, than ourselves.

“The spirit of the Constitution,” if sought, out of the instrument itself, and if sought by *historical* testimony, is to be sought in “*the spirit of the age*” and nation, in which the Constitution was born. The question becomes a question of the leading purposes, aims, objects, and principles, that gave birth to the Constitution—that *preceded* it—that demanded it—that brought it into existence.

To know “*the spirit of the Constitution*,” then, we must take a portrait of the “SPIRIT OF SEVENTY-SIX!” If *that* spirit, like the prophet Samuel, is *buried* out of sight of the present generation, and if, “because the Lord has departed from them,” and the well recorded *words* of the seer will not suffice them, they must needs demand a vision of the “*spirit*” *itself*—let them strengthen themselves for the sight, lest they “fall straightway all along on the earth, and are sore afraid at its words,” when it rises before them, like “gods ascending out of the earth.” It comes! It comes! “An old man covered with a mantle”—its declaration of self-evident truths burning from its lips—its right hand, lifted to heaven, in solemn appeal to “the Supreme Judge of the world, for the rectitude of its intentions”—while “in the *name* and by the *authority* of the good PEOPLE of these colonies”—“with a firm reliance on the protection of Divine Providence”—“for the support of this declaration,” and

pledging (on behalf of those people) "their lives, their fortunes, and their sacred honor"—it affirms, (as founded on "duty" and on "right,") its act of separation from the people and government of Great Britain; "TO INSTITUTE A NEW GOVERNMENT, laying its foundation on such PRINCIPLES, AND ORGANIZING ITS POWERS in such FORM" as "shall seem most likely" to "secure those rights for which governments are instituted among men"—"holding these truths to be self-evident, that ALL MEN are created EQUAL, that they are endowed by their Creator with certain INALIENABLE RIGHTS, among which are life, LIBERTY, and the pursuit of happiness."

Such is the "*spirit of seventy-six*." Will it be pretended that *that* "spirit" was dead and buried, without hope of resurrection, in less than thirteen years after its memorable "Declaration?" Will it be pleaded that "the spirit of the Constitution" of 1787-9 is not identical with the "spirit of seventy-six"—pursuing, in the Declaration and in the Constitution, one and the same end?

Was the solemn pledge of '76 unredeemed, nay, deliberately *broken*, by the Constitution of 1787-9?

Is the "*spirit of the Constitution*" of 1787-9, the deadly antagonism of "*the spirit of seventy-six*?" This it must be, if it either "guaranties" slavery, or holds any manner of "compact" or "compromise" with it? And *then*, it becomes the deadly *enemy* of the nation's freedom, instead of its servant and protector!

We have not room to cite a tithe of the concurrent testimony of that period. We might notice that the "Declaration of self-evident truths" was likewise a declaration of well recognized and oft reiterated truths—that the language of that national document was not only the language of the Common Law, but the language, likewise—almost to plagiarism—of the popular and widely current anti-slavery literature of those times. We might cite the anti-slavery pledge of the Continental Congress of 1774, the solemn denial, by the same Congress, in 1775, that "the Divine Author of our existence intended a part of the human race to *hold an absolute property in, and unbounded power over* others." We might cite the testimony of Mr. Jefferson, in his Notes on Virginia, towards the close of the Revolutionary War, that the anti-slavery sentiment was GAINING GROUND "*since the origin of the present Revolution*" and the way preparing "FOR A TOTAL EMANCIPATION." We might recite the *anti-slavery efforts*, (as well as writings,) of Dr. Rush, John Jay, Alexander Hamilton, and Benjamin Franklin, at that period,

and so onward, *during the progress* of measures for forming the present Constitution,\* and *after its adoption*. This, in connection with the actual abolition of slavery, and the adoption of measures for this end, in a number of the States, and the generally expressed belief that these measures were about to be extended into all the other States. The acts of Congress, already mentioned, just *before*, and confirmed again just *after* the adoption of the Federal Constitution, forever abolishing slavery in the North West Territory, to the end that the Territory might be formed into "republican States and have no slavery." Nor could we well omit the "Observations on the American Revolution," published by Congress in 1779; containing this declaration:—"The great principle (of government) is, and *ever will remain in force*, that ALL MEN ARE BY NATURE FREE, and so long as we have any idea of JUSTICE, we must associate that of *human freedom*. It is *conceded on all hands*, that the right to be free CAN NEVER BE ALIENATED.† We might mention too, the statement of Judge Wilson, one of the members of the Convention that framed the Constitution, which he made in the Pennsylvania Convention for its ratification, the same year, that the Federal Constitution had "*laid the foundation for banishing slavery FROM THIS COUNTRY:*"—and in accordance with this, the anti-slavery petition of Franklin, (another member of the Convention that formed the Constitution,) as President of the Pennsylvania Abolition Society, praying Congress, in 1790, to "secure the blessings of liberty to the people of the UNITED STATES," "*without distinction of COLOR.*"‡ To this we might add the declaration of Washington that slavery ought to be abolished by legislative authority, and that his vote should be given for the measure. We might add the testimony, not only of Madison, Pinckney, and Jay, but also of Patrick Henry, Grayson, Tucker, Wythe, Pendleton, Lee, Blair, Mason, Page, Parker, Randolph, Iredell, Spaight, Ramsay, Martin, McHenry, Chase, Bayard, Rodney, Rawle, Buchanan,

\* Hamilton and Franklin were members of the Convention that framed the Constitution. Rush and Franklin were signers of the Declaration of Independence.

† Here, by the bye, we have another definition of a "republican form of government" which we omitted to quote in its proper connection, in our second chapter. It furnishes also, a definition of that "*justice*" which is promised in the Preamble of the Constitution, and affirms (what we shall have occasion to insist upon by and by) that the great anti-slavery principle of the Declaration of Independence, is not only "the spirit of the Constitution" of 1767-9, but "*WILL EVER REMAIN IN FORCE*" whether with the concurrence of parchment Constitutions or without them.

‡ There was no District of Columbia at that time, and no Territory in which slavery had not already been abolished by Congress. Very manifestly, then, Dr. Franklin petitioned for the abolition of slavery in the States, and by the Federal Government which he had assisted in framing—a fact that has been alluded to, in recent pro-slavery reports in Congress.



Wilkinson, Pleasants, McLean, Anthony, Bloomfield, Galloway, Johnson, Dawes, Scott, Gerry, Rice, Brown, Campbell, &c., &c. A list including the most prominent statesmen of the South as well as the North, proclaiming before the sun, that SLAVERY was a fast waning system, that must speedily fall.

And, what is more significant than any thing else, so overwhelming was this spirit of abolition, during the period from 1774 to 1790, that *the voice of opposition was hushed!* Luther Martin of Maryland, is reported as having made a powerful anti-slavery speech in the Convention that framed the Constitution, but it is *not* on record that a solitary member moved a tongue in reply. So far from there being a pro-slavery excitement at the South, *every* southern member of Congress voted for the abolition of slavery, in the North Western Territory, and the public press in Virginia was loud in its condemnation of slavery.

But we must pause. It would require a much larger book than the one we are now writing, to present any thing like an adequate expression of the ANTI-SLAVERY "SPIRIT OF THE AGE" in which the Federal Constitution was framed and adopted. About ten pages of Weld's "Power of Congress over the District of Columbia"—commencing on page 25, is occupied with a condensed specimen of the language of eminent statesmen of that period, on the subject, which the reader would do well to examine.

The evidence is overwhelming, that the prevailing "spirit of the age" that produced the Federal Constitution, was an *anti-slavery* spirit, and that this spirit was manifest in the leading minds by which the Constitution was projected, and adopted as well as framed. The pretence of a "compact"—a "compromise"—a "guaranty" in the Constitution, or at the basis of it, *in favor of slavery*, becomes too absurd to be discussed without irony.

#### EXTENT OF THE NATIONAL POWER.

The "spirit of the Constitution," in respect to SLAVERY is sufficiently apparent. "The spirit of the Constitution" in respect to the POWERS essential to be granted, and intended to be conferred, upon the Federal Government, constitutes a distinct branch of inquiry, to which we will now turn.

The *letter* of the constitutional provisions on this subject, we have considered elsewhere, and have found them amply sufficient to authorize the abolition of slavery. And what reason have we to suppose that the *spirit* of the Constitution, in this respect, is behind the strict *letter* of its provi-



sions? What is there, in the instrument itself, in the structure of the Federal Government it authorizes—what is there in the history of the times, what was there, in the wants or the wishes of the people, that should indicate that the strict *letter* of the Constitution, in this particular, is not in accordance with its *spirit* and *design*?

The whole framework of the Federal Government, as detailed in the provisions of the Constitution, including its restrictions of State power, reveals to us the fact that a *Government*, not a *Confederation*, a *Government* not merely in name but *in fact*, was intended, was authorized and instituted, by the instrument containing the organic law of the Government, and declaring *itself* to be “the *supreme law* of the land.” And there is no such thing as a civil or political government, by the definition of any eminent civilian or jurist, that does not possess the power to establish justice, secure the blessings of liberty, protect individual rights, and “execute judgment between a man and his neighbor.” “When the laws have declared and enforced all this”—as Mr. Jefferson hath it—“they have fulfilled their functions.” To talk of a civil or political government that does not possess this power, is to talk absurdity, self-contradiction, and nonsense. It is to speak of a thing as existing and not existing at one and the same time.

The old “Articles of Confederation” between the States, had been entered into, in 1778. This arrangement had been found necessary to clothe in a more formal manner, the “Continental Congress” with THE POWERS the national exigencies had been found to need. Until, then, the Declaration of Independence, establishing the *principles* and defining the objects of the new government, but entering very little into details, had constituted, along with the Common Law, the only distinctive Constitution of “*the United States*,” which that Declaration had affirmed to exist.

And in these Articles of Confederation, a certain amount of “*power and jurisdiction*” (evident attributes of a civil and political government) had been—to use its own words—“*expressly delegated to the United States in Congress assembled*.” The object of these powers was affirmed to be “the more convenient management of the general interests of the United States.” In many important particulars, the powers that would have pertained to separate *disunited* States, (such by the bye, as “*the United States*,” described in the Declaration of Independence that gave birth to them, *never were*,) did not, as a matter of stipulated arrangement, pertain to the *States* under the Confederation. Among other things,

they could grant no titles of nobility, nor keep vessels of war or other armed force, in time of peace, nor without leave of the United States—neither could they engage in war, unless actually invaded—circumstances sufficiently indicative of their *limited powers*, and of the dependence of the individual State upon the Confederacy. Congress, with the concurrent consent of nine States, &c., &c., were to exercise the “sole and exclusive right of determining on peace and war.”—Were to determine controversies between different States, were (exclusively) to receive and send foreign ambassadors, enter into treaties and alliances, manage all affairs with the Indians, fix the standards of coins, weights and measures, establish post-offices, &c., &c.

Nevertheless, after the experience of nine years, it was found that the powers of Congress were not sufficiently extensive to secure to THE PEOPLE the full benefits that a NATIONAL GOVERNMENT ought to confer, and the Preamble to the present Constitution may afford us some hints of those ascertained defects, as may likewise those specific provisions in favor of liberty which have already been discussed; particularly the Amendments. Hence, the new Constitution was formed.

It is known that the delegates to the Federal Convention came together with various and discordant views of the degree of power which the National Government should possess, and that the proper adjustment of power between the State and National Governments, involving the difficult if not impracticable problem of reconciling a National Government with the independency of the States, occupied by far the greater part of the time of the Convention. This problem indeed, along with the connected one, of properly adjusting the relative power of the *larger*\* and the *smaller* States (not the Northern and Southern, the slaveholding or the non-slaveholding)† and allaying the rising jealousies between them, drew out the greater part of the debates in the Convention. And those delegates who came into the Convention strongly prejudiced and even pledged against the conferring of larger powers upon the National Government, found either their own views modified by the facts and ar-

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\* Massachusetts, Pennsylvania, and Virginia, were then the large States whose power was feared.

† Nearly *all* the States if not *all*, were then slaveholding States, and not *one* of them expected long to remain so—a fact that may well account for the little attention paid in the Convention, to that subject, and throwing an air of the ridiculous around the grotesque pretension of a “compact”—“a compromise”—or “guaranty” on that subject.

guments adduced in the debate, or else found themselves in an inconsiderable minority, at the close of the Convention.\*

We may be certain, then, of two things—first, that the words employed in the Constitution were not inadvertently used—second, that the powers conferred were not hastily and inconsiderately bestowed. What those powers are, the Constitution distinctly states.

Nor was the Constitution adopted without a public and wide spread agitation and discussion of this very point. The adoption of the Constitution was opposed on the ground, chiefly, of its too ample bequest of powers to the Federal Government, to the detriment or the danger of "*State Rights*." Yet, notwithstanding all this, and although the vast abilities and almost unbounded influence of Mr. Jefferson and his friends were thrown into the scale of opposition, yet the overwhelming majority in favor of ratification, (including the mass of those statesmen and of the citizens, who afterwards, and on other grounds, rallied round Mr. Jefferson and elevated him to the highest office in the Government,) very soon decided the question, and such a degree of enthusiasm prevailed, that, from that day to this, few statesmen, however jealous of "*State Rights*" and fearful of the National Power, have adventured to find fault with the provisions of the *Constitution* in this particular.

And what is still more significant, no class of statesmen, not excepting Mr. Jefferson and his particular friends, have ever found the constitutional powers of the Federal Government too extensive for their convenience, when charged with the administration of the national affairs. In his purchase of Louisiana, Mr. Jefferson admitted distinctly that he exceeded his constitutional powers; at first he suggested an alteration of the Constitution, *extending* its powers for that purpose, but afterwards consoled himself with the thought that the popular assent to that measure made it as valid as a formal change of the Constitution could have done. And in his annihilation of all foreign and even coast-wise commerce, by the long embargo, he gave a much larger construction to the Federal Power over commerce than the total abolition of the domestic slave-trade (even upon Mr. Clay's identification of the slave-trade with slaveholding) would require. Mr. Madison, who once thought the establishment of a National Bank beyond the constitutional scope of the

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\* For the correctness of these statements, we refer to "Secret Proceedings and Debates of the Convention that assembled in Philadelphia, in the year 1787, for the purpose of forming a Constitution of the United States of America, from the notes of the late Robert Yates, and copied by John Lansing, Jr., members of that Convention." Albany, 1821.



Federal Power, was afterwards willing to see that power used for that purpose. And all who assent to the constitutionality of protective or prohibitory tariffs, claim a much higher and a much more questionable power for the Federal Government—in the view of any unprejudiced constitutional lawyer—than the power of abolishing slavery in the States—even allowing that the *specific provisions* of the Constitution in that direction, should be left out of the argument.

It remains that we add some citations from *approved constitutional expositors*, attesting the powers which “*the spirit*” and letter of the Constitution confer on the government it authorizes and institutes.

While the question of the adoption of the Federal Constitution was yet pending, and one of the main objections, as already noticed, was the excess of national, in opposition to State power, Alexander Hamilton, (who, along with Madison and Jay, was explaining and defending the Constitution in the papers called “*The Federalist*,”) so far from concealing or explaining away this feature of the proposed Government, avowed and defended it in the bold language that follows:

“But it is said, that the laws of the Union are to be ‘*the supreme law of the land*.’ What inference can be drawn from this—or what would they amount to, if they were *not* supreme? It is evident they would amount to nothing. A LAW, by the very meaning of the term, includes supremacy: It is a rule, to which those to whom it is prescribed, are bound to observe.”—*Federalist*, No. XXXIII, page 175.

In the same connection he shows the confusion and anarchy that would ensue if the National Government were *not* to be invested with that supreme and paramount authority over the States which the Constitution describes. And in another article, setting forth “the defects of the present Constitution” (meaning the then existing Articles of Confederation,\*) the same writer says,

“The next most palpable defect of the existing Confederation is the total want of a SANCTION to its laws.”—*Federalist*, No. XXI, page 110.

In pursuing the subject, the writer among other things, makes the following significant suggestion:

“Who can predict what effect a DESPOTISM, established in Massachusetts would have upon the liberties of New Hampshire or Rhode Island, Connecticut or New York?”—*Ib.* page 112.

Sure enough? And who could predict the effects of a despotism in Virginia, upon the liberties of Pennsylvania and Ohio? More than Hamilton apprehended, has

\* It will be noticed here, that Hamilton considers the Articles of Confederation a *Constitution*, but “defective” because not conferring sufficient powers—



already been realized. But his suggestion furnishes a pertinent comment upon the constitutional power of Congress—as construed by “the *spirit* of the Constitution”—under the clause that “guaranties to every State in this Union, a republican form of government.” Coming as this hint did, from a known abolitionist, how happens it that the South took no alarm, if the South had then expected to perpetuate slavery? Neither this hint, nor his exposition of the supremacy of the Constitution and the laws of Congress appear to have had any other effect than he desired, viz: to make the Constitution popular with THE PEOPLE, and secure its enthusiastic ratification.

Mr. Madison, one of the most prominent members of the Federal Convention, and himself a slaveholder, in a speech in the first Congress under the new Constitution, May 13, 1789, referring to that contemplated abolition by Congress of the African slave-trade, a measure that was then anticipated to be identical, in effect, with the abolition of slavery itself, held the language that follows :

“I should venture to say it is as much for the interests of Georgia and South Carolina, as of any State in the Union. Every addition they receive to their number of slaves tends to *weaken* them and renders them less capable of self defence. In case of hostilities with foreign nations, they will be the means of *inviting* attack instead of repelling invasion. IT IS A NECESSARY DUTY OF THE GENERAL GOVERNMENT TO PROTECT *every part of the Empire against DANGER*, as well *external* as internal. EVERY THING, therefore, which TENDS to *increase* this danger, though it *may* be a *local affair*, yet if it involves NATIONAL EXPENSE OR SAFETY, it becomes a concern to EVERY PART OF THE UNION, and is a proper subject for the consideration of those charged with the GENERAL ADMINISTRATION of the GOVERNMENT.”—*Cong. Reg. Vol. 2. page 310—11.*

The powers of the Federal Government in general, and in particular reference to *slavery*, according to “the *spirit* of the Constitution” as understood by Mr. Madison, may be gathered from this paragraph with sufficient distinctness. What a comment upon the miserable pretence that the North has no right to interfere—that there was a “compact,” a “compromise,” an “understanding”—nay, even a “guaranty,” (as some have it) by which the Federal Government is precluded from touching the proscribed topic! Yet who can fail to see that Mr. Madison’s doctrine is but a fair exposition of the power of Congress to provide for “the general defence?” The “war power of Congress,” as insisted on by John Quincy-Adams, to abolish slavery in the States, is evidently but an approximation to the higher doctrine of Mr. Madison, as here expressed. And the official statements of the late Secretary of the Navy, Mr. Upshur, which no one pretends to call in question, may suffice to show that the

*occasion* for the prompt exercise of this constitutional power to abolish slavery has fully arrived. Even the item of "national EXPENSE" Mr. Madison makes a sufficient cause for such action on the part of the General Government, even without the danger of a partial conquest and consequent dismemberment of "the empire." And according to the best estimates, the "expence" of the necessary means of defence recommended by Mr. Upshur, could not fall short of *two hundred millions of dollars*, to begin with, to say nothing of the standing expense, afterwards, (of, say *twenty millions per annum*,) to maintain such a Navy and keep it in repair. One of these things, then, the National Government must and will, *as a matter of fact*, do :—either incur this expense, or abandon "the general defence" of the country, or "provide for the common defence" by the only remaining means in its power, the exercise of its constitutional authority for the abolition of slavery in the States.

Among Constitutional Jurists now on the stage, there is no one, perhaps, whose opinion would have more weight with those who would controvert our positions, than that of Judge Story. His participancy in the late decision of the Supreme Court in the case of *Prigg versus Pennsylvania*, will relieve him from the suspicion of any undue tendency to construe the provisions of the Constitution in favor of abolition. Let us hear his exposition of the powers of the General Government:

"If there be any general principle which is *inherent in the very definition of Government*, and essential to every step of the progress to be made by that of the United States, it is, that every power vested in the Government, is, *in its nature sovereign*, and included by the form of the term, THE RIGHT TO EMPLOY ALL THE MEANS REQUISITE, and forcibly applicable to the attainment of the end of such power, unless they are excepted in the Constitution, or are immoral, or are contrary to the essential objects of political society."\*

Assuming then, as Judge Story did, in common with others, that certain powers relative to the return of fugitive slaves, were vested in the General Government, it is easy to see how he drew the conclusion that the State Governments could not, by any legislative provisions, interfere with the exercise of that power. Admitting his premises, the conclusion seems sufficiently logical, so long as we have any remaining conceptions of a *Government of the United States*. Fresh evidence is here furnished, by the bye, that standing on the commonly assumed premises of a constitutional "compact, compromise or guaranty" in favor of sla-

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\*Quoted by Alvan Stewart in his Constitutional Argument, in the "Friend of Man," October 18, 1837.

very, there is no such thing as avoiding conclusions utterly subversive of personal security and general freedom. It is high time, then, to examine the premises themselves, and to know whether we live under a free government or a despotism.

But we have made this citation, in this place, for the purpose of saying that the ample and sovereign powers vested in the Government of the United States—according to Judge Story,—powers in the legitimate exercise of which, (according to the late decision of the Supreme Court) the States can not interfere—are powers abundantly sufficient, *in such an application*, to secure the objects of the Preamble of the Constitution, and its other manifold provisions in favor of “justice”—“liberty”—“general welfare”—“common defence,” “republican form of government,” &c., &c., and against “bills of attainder,” “laws impairing the obligation of contracts”—“titles of nobility,” “*unreasonable seizures*,” and deprivation of “liberty, without due process of law.”—*These* are “powers vested in the Government” by the letter and the spirit of the Constitution, while the “powers” to establish slavery, hunt fugitives, kidnap freemen, or authorize others to do so, may be sought after, in the instrument, in vain.

All the powers in the Federal Government, therefore, that the national abolition of slavery (legislative or judicial) calls for or requires, is precisely the *same* power that Judge Story, (in common with Hamilton, Madison and others) describe as belonging of *necessity*, to the Government of the United States—powers that Judge Story and the other Judges of the Supreme Court have *actually used in support of slavery*. So far as the *powers of the Federal Government* are concerned, the *only difference* between the clearly expressed and faithfully administered doctrine of *Judge Story*, and the doctrine contended for, in this chapter, *is this*:—viz. 1. Judge Story (in the case of *Prigg vs. Pennsylvania*) maintains the supreme authority of National over State legislation, in a case where the “*power vested in the Government*,” viz: to seize or authorize the seizure of persons claimed as fugitive slaves—is a “power” *not* described nor specified in the Constitution—a power not to be made out by “strict construction” and grossly inconsistent with “the spirit” of the Constitution itself. 2. Judge Story wields this power of the Federal Government in favor of SLAVERY and consequently against LIBERTY:—we would wield *the same* federal power in favor of LIBERTY and consequently against SLAVERY.



Which application of that power will the American people prefer?

We have already remarked that those most tender of State rights and jealous of National power have gone quite as far as others in the *use* of the highest and even questionable federal powers. We may now add that the highest stretch of federal power has been made in support of slavery. The purchase of Louisiana and the late decision of the Supreme Court furnish instances in point. To scruple the use of the *same* powers in favor of the legitimate and highest *objects* of power, that are commonly conceded and wielded in *subversion* of those objects, is to bring the Government into ill odor and contempt.

It is quite remarkable that the *exceptions* to the use of supreme national power, laid down by Judge Story, are exceptions that should have prevented him from giving his sanction to the late decision of the Supreme Court. A right, in the Government, to wield power for the enslavement of any human being, is a right that, in the nature of things, can never exist. Such a right the Constitution does not even *pretend* to confer, and consequently the exercise of such an assumed right is "excepted in the Constitution," and its exercise is most notoriously and superlatively "immoral" as well as "contrary to the essential objects of political society." But, on the other hand, the use of the supreme power of government "to establish justice" and "secure the blessings of liberty" is emphatically the use of it for the very "ends of such power" as explicitly specified in the Constitution itself. Of course the Constitution can make no "*exception*" to such use! No "*exception*" can be pointed out—no shadow of a provision that the ordinary and well known powers of civil government to abolish slavery shall not be exercised by the Government of the United States.\* And the highest dictates of "morality"† are fulfilled by such an use of legislative and judicial power. And *without* such an use, "THE

\* Another consideration sufficient to show the absurdity of supposing that by any "compact" or "compromise" the National Government was precluded from abolishing slavery. No one *then* questioned the legitimate power of civil government in general, to abolish slavery, and the exercise of that power to that end was the rising fashion of the day, in this country. Yet in forming a civil government with *supreme powers*, no restriction was even attempted to be made, upon the power of the Government in that direction. Of course, the power of the Government, in that particular, is the same with that of other governments. *The absence of any such restriction* proves that no such "compact" or "compromise" was made.

† The reader will please to notice this concession of Judge Story (in accordance with the principles of Common Law) that the powers of civil government, though in their "nature sovereign" are restricted and limited by the principles of "morality," and "the essential objects of political society." What becomes then, of the law of 1793, and of the late decision of the Supreme Court?



ESSENTIAL OBJECTS OF POLITICAL SOCIETY" *can never be attained*, and the Government fails of fulfilling the appropriate functions of all civil government.

We claim, then, that the "spirit of the Constitution" is the spirit of liberty, the spirit of uncompromising hostility to slavery. And we claim that the "spirit of the Constitution" amply confers on the National Government the power to "establish justice"—to "secure the blessings of liberty"—to "provide for the common defence"—and consequently to abolish slavery.

## SECTION IV.

### THE CONSTITUTION CONSTRUED.

"THE SPIRIT OF THE CONSTITUTION," ON THE WOOL-SACK.

To construe the Constitution or any portion or feature of it, is to fix, definitely, upon its true meaning, or some particular portion or feature of it, and decide what application or bearing it has, upon some practical problem, particularly under consideration, at the time; as, for instance, its bearing on slavery and the action of government, either for its support, or its overthrow.

The "spirit of the Constitution" furnishes the rule by which we are to construe its provisions and their application and bearing on slavery and its abolition, in the present discussion.

This "*spirit of the Constitution*" is nothing distinct from its *general and predominant character*.

Every man is known in the community in which he moves, and is designated as having *this* character or *that*, accordingly as such or such traits or qualities are found to *predominate*, in him. He is *characterized* by the qualities that are found to *prevail* in his movements, notwithstanding some particular incidents in his history may not seem well to harmonize or agree with that character. Just so, a Constitution of government has its distinctive, its appropriate, its predominant character, although some incidental provisions may present apparent or even real anomalies, or may be so expressed as to appear ambiguous, or come into dispute and litigation.

If a man should die leaving a last will and testament, and some of its minuter provisions should seem anomalous, obscure, ambiguous, or should come into litigation, the Court would try to ascertain, both by an examination of the instrument itself, and by the well attested character, pursuits, ends, objects, partialities, antipathies, attachments, and consan-

guinity of the deceased, what the general character, spirit, end, aim, object, and scope, of the instrument was, and then, in the light of that ascertained *spirit* and *character* of the instrument, determine what disposition to make of the controverted point. If, for example, the preamble in the principal item in the will should have consisted in the recital of the near affinity, ancient friendship, mutual labors, and invaluable services of one certain *Jonathan Smith*, well known to have been a near relative, a munificent patron, and a faithful partner in the business of the testator, declaring the said testator's intention, in this instrument, to give him his whole real estate—and if, in a subsequent part of the instrument, after a minute description of the testator's home, mansion and principal landed property, it should go on to devise and bequeath the whole to a certain person whose name was so clumsily or imperfectly (perhaps fraudulently) written by the draftsman, as to have given rise to the contest whether it were the aforesaid *Jonathan Smith* or one notorious felon *John Smith*, proved in Court to have been a deadly enemy of the testator, who was always conspiring his ruin, who had often attempted to take his life, and whom the testator, at the very time of making his will, was busily intent on bringing to justice—what do you think, candid reader, the Court and jury would do with the very modest claims of this Mr. *John Smith* to the mansion and estate of the testator?—Settle but that one “delicate question” and you have comprised in a nut-shell the very gist and pith of the grave constitutional question at issue, before this great nation, at this moment.

The general character and spirit of the Constitution with its affinities, its aims, and its plighted promises to LIBERTY have been abundantly proved. They stand out in bold relief, in the fore front of the document itself, and are corroborated by all the concurrent history of the times in which it was written. Not less well attested and notorious is the hostile character of the felon SLAVERY, that would have strangled “the spirit of the Constitution”—the spirit of seventy-six, in the cradle; and that was doomed to the gibbet with the same breath that directed the draft of the Constitution! Yet now it strides modestly into Court and claims the document as a deed of “guaranty” in its own favor! It claims the hearth-stone, the resources, the entire domain of its hated rival, pretending to have derived its title from that rival's own voluntary bequest, as its beloved and favorite heir! And “constitutional lawyers” are found, fee-hungry enough to pronounce the claim valid, or long eared enough

to puzzle their spectacles over the "perplexing and difficult question!"

One moment, and a brief space, we must devote to details.

Is it still doubted by any one, whether the clause concerning "persons held to service and labor" may not possibly authorize the seizure and return of fugitive slaves? Do the *words* of the instrument by any English Dictionary, admit of a *possible* construction to that import? Was the instrument clumsily, or artfully, or ambiguously drafted by the penmen? Is it doubtful whether *Jonathan Smith* or *John Smith*, whether *liberty* or *slavery* should have the benefit of the disputed provision? Let "the spirit"—the *general character* of the Constitution turn the scale.

Suppression of "insurrection"—protection against "domestic violence." What construction shall be put upon these disputed terms in the national "will and testament?" Is it "insurrection" to refuse to labor without wages? "Insurrection" to rebel against *slavery*? Or are the insurgents those who violate that *liberty* which the Constitution ensures? Is it "domestic violence" to run away from women-whippers and babe-stealers? Or even to wrench the manacle and thumb-screw out of their hands? Or, on the other hand, is "domestic violence" to be defined by the usages of slavery itself—the well-known practices of slaveholders? Who shall stand for the lawful heir, the presumptive devisee, the legitimate *child* of the "spirit of the Constitution"—the "spirit of seventy-six"—so far as *this* item of bequest is concerned? Shall LIBERTY or shall SLAVERY inherit under the "will?" The litigants are both in Court. The jury will please to look at them, and decide. There stands the "peculiar" claimant with its driver's lash in its hands—his scales, for selling children by the pound, just before him—his blood-hounds, for hunting down honest husbands in search of their kidnapped and ravished wives, just behind him. This is *one* of the claimants under the bequest! The other is plain *Jonathan* himself, with his free labor scythe on his arm, a liberty vote in his pocket, and the cap of liberty on his head. Which most resembles the testator, claimed as a father? Which looks most like "the spirit of the Constitution" and of seventy-six? Gentlemen of the jury! As descendants of the Pilgrim Fathers, what say you? What say you, from Bunker Hill and from Plymouth Rock—from Monmouth and from Saratoga—which is the lawful heir? At the ballot box you will render your verdict!

Glance we now at the constitutional provisions claimed for liberty—for the consequent ejection and banishment,

as an usurper, of the SLAVE POWER that has crept into the mansion house of the testator, and driven his children, in coffle gang, on to the plantation, as slaves. There is the item of the "will" that puts the commerce of the Nation, foreign and domestic, into the hands, and under the jurisdiction of *Congress*, the representatives of the People, and of *freemen*. Next comes the item that "guaranties to every State in this Union, a republican form of government." Then come, in succession, the items that inhibit "bills of attainder," "laws impairing the obligation of contracts"—conferring "titles of nobility"—"making war" upon our citizens, or "keeping troops" in time of peace, along with the items that secure a jury trial, and the benefits of the writ of habeas corpus. At last comes the codicil of "amendments" to the "will," securing freedom of speech, of peaceably assembling, and of the press—security against "unreasonable seizures"—deprivation of "liberty without due process of law"—"excessive bail—cruel and unusual punishments" and providing "jury trial" where the value of twenty dollars is at hazard. Taking up these items, either in the gross or in detail—do they amount to a constitutional veto upon slavery, or do they not?—We claim to have proved by the rules, and before the Court of "*strict construction*," that THEY DO. Is it in the "*spirit of the Constitution*," and of seventy-six to *reverse* the judgment there obtained? If *not*, then that judgment of the lower Court must stand, as the ultimate decision of the law.

But, suppose, for the argument's sake, that the proof before the Court of strict construction had been less conclusive—that judgment had been suspended—nay, even that it had been rendered by that Court, *against* the claims of freedom, and that, on *her* appeal, instead of that of slavery, the cause were now in litigation here. What says the "*spirit of the Constitution*" and of seventy-six, to an issue like this?

What *can* it say but, as its noble name and high office dictates, EXALT the living "*spirit*" of the instrument, the "will," the Constitution, above mere dead *letter*, the words, the syllables, the alphabetical characters it employs?

Be it so, that the "*word-catchers who live on syllables*," can read *no* abolition of slavery in the "guaranty of a republican form of government," the exemption from "unreasonable seizures"—the security of liberty except "by due process of law"—nor yet in the prohibition of a caste of nobles—of "bills of attainder"—of "laws impairing the obligation of contracts"—while, at the same time (strange to tell) they can find read "fugitive slaves" in "*persons held*



to service and labor," "from whom service and labor may be *due*"—can find "insurrection" in the refusal to work without wages, and "domestic violence" in the attempt to *escape from* domestic violence! Be it so, that, on the argument of dry technicalities we were wholly at fault, and that our opponents held the undisputed field as their own. *What then?* If there be any significancy in an appeal to "the *spirit*" of the Constitution, we may say of such, as the poet has said—

"Commas and points they set exactly right,  
And 'twere a sin to rob them of their mite!"

And common sense may determine whether "*the spirit*" that solicitously guards against minor oppressions in minute details could tolerate the sum and the climax of all oppressions in the gross, and reduced to the most perfect system of which history furnishes any specimen, or of which the human mind can conceive.

What if it *were* so, that the *letter* of the Constitution could not rightfully be claimed as a guaranty of such a specific form of "republican government," as excludes slavery—does not the living "*spirit* of the Constitution" and of this provision afford such a guaranty? To what purpose, or for what object, should the form of a representative government be preserved, if the PEOPLE, (instead of a select, a favorite caste of them) are not to be represented; nor republican principles honored, nor republican liberty and individual security preserved? Is "the *spirit* of the Constitution" to be satisfied with the mere outward shell, without the vital essence of a republic?

What if it *could* be doubted or denied that the prohibition of "bills of attainder," and of laws "impairing the obligation of contracts," were provisions distinctly and directly prohibitory of slavery—is it not nevertheless manifest that "THE SPIRIT" that must needs guard against *ordinary* bills of attainder and against *such* laws "impairing the obligation of contracts" as are *less* oppressive than the code that vitiates the contracts of the laboring population of one half the States, is a "SPIRIT" that can never consent to the incomparably *more extensive* and *unrelenting* attainder of slavery—the still more unlimited annihilation of contracts wrapped up in the slave code?

What if it *were* so that the prohibition of titles of nobility were not, in due *form*, a prohibition of the slaveholding caste; the *more* than villeinage or serfdom of their vassals? Who does not see that the "SPIRIT" that prohibits the

former, must be still more irreconcilably hostile to the latter?

What if it *were* so that the provisions against “unreasonable seizures” and against the deprivation of “liberty without due process of law,” were provisions which *technically* considered, could not be *directly* claimed for the enslaved;—it would nevertheless be true that the living “*spirit*” and vital essence of such provisions demand and authorize the instant abolition of slavery.

What if it *were* so that the benefits of jury trial, and of the habeas corpus were not particularly secured or provided, for the especial use of the fugitive slave:—can the living “*spirit*” of such provisions be satisfied—*can it be preserved*—in the presence of the Act of Congress of 1793, and the decision of the Supreme Court in the case of Prigg versus Pennsylvania? Let passing history answer.

Most manifestly, if there be any significancy in an appeal to “*the spirit of the Constitution*” for the purpose of *expounding* provisions like these, the exposition must be in favor of liberty and against slavery.

And just at this point, before passing to another topic, we must pause to extend somewhat, an observation already thrown out in a note, in which it was remarked that the absence of any restriction upon the Federal Government, of the ordinary, the universal power of all civil governments to abolish the slavery existing within their territorial limits, was proof positive that no such “compromise” or “guaranty” in favor of slavery had been made. We now add that this circumstance furnishes proof that the Federal Government DOES possess power to abolish slavery, and is *bound to EXERCISE* that power.

Admitting, as all candid men must do, in review of the examination that has now been had, that there is nothing in the Federal Constitution establishing our National Government that *restricts* or *prohibits* that Government from the abolition of slavery, it follows—*first*, that the common powers of *all* civil governments to “execute justice between a man and his neighbor,” and consequently to abolish slavery, pertain to the Government of the United States; and consequently, *second*, that the same obligations rest on the Federal Government to abolish slavery, that rest on every other government, on earth, in whose territorial limits slavery is practiced.

Those who remind us that the Federal Government is a limited government, and therefore can not abolish slavery, always refer us, of course, to the Federal Constitution, for

the limitations of which they speak. But the Federal Constitution contains *no limitations* of the power of the Federal Government in the matter of slavery. That government, therefore, retains all the power over slavery that any *other* civil governments hold, and is charged with all the responsibilities, in respect to it, with which all *other* civil governments are charged. And consequently, even in the *absence* of such specific provisions as those we have considered—(the guaranty of a republican form of government, the exemption from unreasonable seizures, inviolability of liberty except by due process of law, the prohibition to the States of bills of attainder, nullification of contracts, titles of nobility, &c. &c.,) it would still be true that the Federal Government is amply competent to abolish slavery; whether the Constitution be construed by “strict construction” or by “the spirit” of the instrument itself.\*

All this would be true, even upon the supposition that any artificial compacts or written parchments, *could possibly* construct a civil government that should be a civil government, and yet *not* be vested with the power of securing inalienable human rights: a proposition we shall not stop to discuss in this place, though it may require attention elsewhere.

## SECTION V.

### SPECIAL PLEADINGS :—THEIR FALLACY.

And what has the claimant of constitutional slavery to say more, in support of the claim? Or what reason can be given, why sentence of death should not be passed upon slavery itself?

Are we to have a repetition of the cant phrases hitherto in use? “THE COMPACT,” “THE GUARANTY,” “THE PROMISES OF THE CONSTITUTION?” Notable words these, once—but what do they avail now? What has become of them?

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\* To this view it may be objected, that by Article 10, of the Amendments, the contrary rule is established, viz: that instead of the General Government holding all the powers not prohibited; it holds none not specifically granted. To this it is sufficient to reply, that “the powers delegated to the United States” by the Constitution, do include the powers of a “GOVERNMENT,” (not a mere confederacy.) “of the United States.” [See Art. 1., Sec. 8, Clause 17.] And the “legislative,” “judicial,” and “executive” powers of that “government” are particularly enumerated, and the laws of the United States are declared to be “the supreme law of the land.” These delegations of power comprise a full description of the essential powers of a “civil government” and the “establishment of justice” is declared to be the end of the whole. The general powers thus delegated to the United States, (aside from specific provisions) are sufficient for the abolition of slavery, unless it can be shown (which it can not) that such a particular exercise of power is prohibited in the Constitution.



Does the Constitution of 1787-9 contain the "compact?" If *not*, where shall we look for it? Where is the document, or the record, that we may fasten our eyes upon it? In what law library shall we inquire for it? What is the name of the book and of the publisher that can put us in the possession of it? In what public archives are they deposited, and who are they that have ever gained access to them?

National "compacts," "compromises," and "guaranties" are wont, in this age of printing presses and of official depositories and records, to have some tangible shape and form—some home and abiding place, where they may be examined and referred to, at pleasure. Not only the learned civilian but the humble citizen is wont to possess copies of them. They are found on the rural mantle-piece, and on the book-shelf of the artisan. They are among the reading books of the school boy, and become familiar as household words. Such are our Declaration of Independence, Articles of Confederation, and Constitution of the United States.

Without a question, the Constitution, the Articles of Confederation, and the Declaration of Independence, ARE the national "COMPACTS" of these United States. If there are any *others* to be produced, where or what are they, or in whose hands are they to be found?

We are sometimes told that if there had not been some "compromise" made in respect to slavery the southern States would not have come into the Union. It would seem a sufficient answer to say that the southern States *did* come into the Union, and that in the *written compact* the pretended "compromise" is no where to be found. If the southern States were so tenacious and jealous, is it credible that they would consent to leave the "compromise" *out* of the writing? Did they trust to some "implied faith" and "tacit understanding" that was entered into, at the time, without being committed to paper? *By whom* was that "implied faith" pledged? *With whom* was that understanding held? With particular members of that secret Convention in which the Constitution was drafted? Who then were *the parties* to the "compact" to the "implied faith," the "tacit understanding?" "*We, the People of the United States,*" knew nothing of the matter, any farther than appeared in the written document itself, that was submitted to the people, for adoption. If the People of the southern States (who, by the bye, could have known no more of these secret understandings than the People of the North did,) adopted



the Constitution, trusting in the "implied faith" and "tacit understanding" with individuals of the Convention, then they trusted in those *individuals*, whoever they were, and must look to them, and not to the People of the United States.

It would be just as easy to say (and more easy to prove) that the People of the North would not have come into the Union *with* any known compromise or guaranty of slavery, as it is to say that the People of the South would not have come into the Union *without* it.

If it be said that two or three of the slave States—the Carolinas and Georgia—were backward to come into the Union because Congress was clothed with power to abolish that foreign slave-trade, the abolition of which was then thought to be equivalent to the abolition of slavery—the fact that they nevertheless *did* come into the Union, shows that they did it with their eyes open, and after full time to deliberate and consider. And we might offset these hesitancies of the far South with the fact that Rhode Island accompanied *her* ratification of the Constitution with the proposed Amendment that the slave-trade should be speedily abolished, and that her ratification was expressly made "*in confidence* that the Amendment" would "speedily become a part of the Constitution."

And, so far as the States, or the *People* of the States are concerned, who could have been the parties to the "compact" and "the compromise" about slavery? *All* the States were slaveholding States, then, but *none* of them expected to continue so. But for the unexpected culture of cotton, and the invention of Whitney's cotton gin, it is commonly thought that slavery would have run out, in the course of that generation, or at any rate, could not have long survived the abolition of the slave-trade.

So far from its being true that the southern States would not have ratified the Constitution if they had thought the Congress would have abolished slavery, they *did* ratify the Constitution believing that the anticipated abolition of the slave-trade by Congress *would be* (as it was *intended* to be) the virtual abolition of slavery throughout the States. This assertion is not destitute of proof.

The Federal Convention was held in 1787, and in the same year, Judge Wilson, one of the members of that Convention, declared in the Pennsylvania Convention for its ratification, that the Constitution *laid a foundation for* "BANISHING SLAVERY OUT OF THE COUNTRY." And he added, "in the lapse of a few years, *and* CONGRESS *will have power to* EXTER-

MINATE SLAVERY WITHIN OUR BORDERS." By this public declaration, Judge Wilson obtained the assent of the Pennsylvania Quakers to the Constitution. No man contradicted his statements, yet the southern ratifications which came indeed afterwards, and tardily, WERE NOT WITHHELD ON THAT ACCOUNT.

In Virginia the matter was well understood. Gov. Randolph said :—

"They insist that the *abolition of slavery will result from this Constitution*. I hope that there is *no one here*, who will advance an objection so *dishonorable to Virginia*. I hope that at the moment they are securing the rights of their citizens, an objection will not be started, that *those unfortunate men now held in bondage*, BY THE OPERATION OF THE GENERAL GOVERNMENT, may be made FREE."

This was said in the Virginia Convention for adopting the Federal Constitution. Whether there *were* any in that Convention, who *dishonored Virginia* by objecting to the acknowledged power of the Federal Government over slavery, we are not informed. *If there were*, their views did not prevail. The Constitution was adopted. Similar statements are said to have been made in the Conventions of other States.

And what if it *were* so, that in the secret Convention that drafted the Constitution, there were men who wished to shape the instrument in such an ambiguous manner as to favor slavery, without saying so, in direct and honest terms? And what if it could be *proved* that this were so, and that they succeeded in their designs, so far as the drafting of the instrument is concerned? Would the "PEOPLE OF THE UNITED STATES," who knew nothing of the fraudulent procedure, be bound by the *wicked intentions* of the framers, or of a portion of them, instead of the natural import of the *language* they employed? Would "*strict construction*" say so? Or is the "*spirit of the Constitution*" to be accounted identical with the dishonest spirit of such men, who, after all, did not dare to *express*, in the document, their nefarious *designs*? Are we to be bound by their secret and *unrighteous purposes*, rather than by the *righteous words* they were *obliged to employ*, in order to make their document acceptable to the People?\*

We do not say nor even intimate that such were the facts: but we do say that *if* the oft repeated story of an "*understanding*" in favor of slavery, among the members of the Federal Convention, be founded in truth; and if, as is far-

\* See Address to the Liberty Party in the United States, by ALVAN STEWART, Esq., Chairman of the National Liberty Committee—*Liberty Press*, June 4, 1844.

ther alleged, the disputed provision of the Constitution concerning "*persons held to service and labor*," was the result of that secret "*understanding*," and if the very remarkable phraseology there employed, (carefully excluding the word *slave*, and by no means describing the *condition* of a slave,) was *intended* nevertheless, by the writers, to apply to fugitive slaves, then the annals of political chicanery furnish nothing more reprehensible and deserving the indignation of mankind. Let those see to it, who would make such representations of the facts. If there are any who impeach the characters of the framers of the Constitution, before the world, they are the persons.

For, according to their statements, what were the facts? And what was their conduct?

With the policy of holding the Convention in secret, we have nothing to say. We only allude to the fact that it *was* so held. The history of the "Secret Proceedings and Debates of the Federal Convention," furnished us by two of the members, Messrs. Yates and Lansing, of the State of New-York, tells us the story, as does likewise the communication of Luther Martin, of Maryland, (another member,) to the Legislature of his own State, which appears in the same volume. "*The doors*," says Mr. Martin, "*were to be shut, and the whole proceedings were to be kept secret*, and so far did this rule extend, that we were thereby prevented from corresponding with gentlemen in the different States, upon the subjects under our discussion."

This was in 1787. The Constitution was adopted by the States during that year and the year following, and went into operation in 1789. Not until *thirty-two years afterwards*—not until the year 1821, do Messrs. Yates and Lansing lift the veil of secrecy from the "proceedings and debates of the Convention," revealing, by the bye, in addition to the strong and apparently unanswered anti-slavery speech of Luther Martin of Maryland, very little that throws light on the views held in the Convention on *that subject*. Many years afterwards come the celebrated posthumous papers of Mr. Madison. And are we now to be told, that the "*spirit of the Constitution*" is to be ascertained only by the *secret*, and for the most part, yet *unrevealed* sayings and doings of the Convention of 1787—that the Constitution must be construed to mean what Messrs. So-and-So are rumored to have said in that secret Convention—that the "compromises" and "guaranties" of the "compact" are to be looked after, in the secret and unknown doings of that Convention—NOT in the document they elaborated,



nor yet in the ACTS and INTENTIONS of the People who took the instrument at its word, and adopted it, for what its words made it?

But since the posthumous papers of Mr. Madison have been claimed to be in favor of the peculiar institution, the guaranty, and the compromise, let us look at a specimen or two, and see how they read:

"Mr. Gerry thought we had nothing to do with the conduct of the States as to slaves, but ought to be careful not to give any sanction to it."—*Madison papers, Vol. III. page 1394.*

"Mr. Madison thought it wrong to introduce in the Constitution the idea that there could be property in man."—*Ib. Vol. III. pages 1429, and 1430.*

"Article 1, Section 2. On motion of Mr. Randolph, the word '*servitude*' was struck out, and '*service*' unanimously inserted—the former being thought to express the condition of slaves, and the latter the obligation of free persons."—*Ib. Vol. III. page 1569.*

We have the testimony of Mr. Madison, then, *to the fact*, that Mr. Randolph and the *entire Convention*, without a dissenting voice, determined to frame Article 1, Section 2, in such a manner that it **SHOULD NOT** be understood to "express the condition of slaves," but **SHOULD** be understood to "express the obligation of **FREE PERSONS**!"

The framers of the Constitution either *intended* a "compromise" or "guaranty" in favor of slavery, or they did not—they either intended to secure the return of fugitive slaves, or they did not.

If they *did*, then they deliberately intended and artfully labored to **DO THE THING** without **TELLING THE PEOPLE** that they had done it—without *revealing the fact*, by the *words* they employed! The words *slave* and *slavery* were, in that case, carefully avoided, and the description could not have been commonly understood as applicable to the slave. *It was not, in fact*, applicable to the slave—and even allowing the fraud were *intended*, the extreme care to avoid the *detection* of the intention prevented the thing intended from being done! But suppose they *had* succeeded in a covert yet correct description of the condition of the slave—would the **PEOPLE** be bound by the intentions of the persons they employed to draft the instrument, or by **THEIR OWN**?

To put the strongest possible case and give the slave power the benefit of the worst possible supposition that can be made, we will suppose that *the people themselves*, or a majority of them, in looking upon, and adopting the Constitution as a whole, deliberately *intended* the absurdity and impossibility of securing their *own* liberties and yet putting their heels on the necks of their enslaved brothers! A



more diabolical act could not well be described, to be sure, but suppose it were even so, *what then?* It still remains true that they *intended* to secure *their own* liberties, and that in order to do so, they intended to put such words and phrases into the instrument as would answer *that purpose*. It seems too, from an examination of the instrument that they had some correct notion of the proper language to be used. Well—they made use of that language—but with a latent “*understanding*” that the benefits of it should apply only to the “free white” inhabitants, and not to the enslaved! But *that* distinction they were either afraid or *ashamed* to write down. The consequence is, the document itself *does* secure the rights of the *whole population*, whenever it is properly applied. The question arises whether the “*spirit*” (along with the letter) of the document is *the same* as the “spirit” of those who adopted it? And whether the *present* generation *may* not and *should* not use the document according to *itself*, and not according to *them*? Had they used the Bible itself (as they might effectually have used much of it) for the same purpose—would the “spirit” of the *Bible* and *their spirit* be one and the *same thing*?

Suppose six brothers should have an “*understanding*” with each other, and in writing an instrument for the government of the whole family of twelve brothers, should write it so that the instrument would appear very fair in the eyes of all who should look upon it, and that by a fair construction, it would secure the equal rights of the whole. Yet, by *their* “*understanding*” of the matter, some circumlocutions and ambiguities introduced for that object, into the paper, are *intended* to be used to deprive the other six of their rights. The question is whether an honest judge and jury may not use *the document itself*, fairly construed to secure for the *whole family their rights*, or whether they must needs be governed, in their decision, by the fraudulent intentions of the *six*, and so help carry them out, in their verdict and judgment!

’Twere needless to trace out and expose, in detail, all the puerilities that have been uttered against the abolition of slavery, by Congress, in the District of Columbia. The only pertinent question is, by what right, authority or warrant, *Congress has enacted* slavery, there.

What absurdity can exceed that of saying that the wishes or the laws of Virginia and Maryland must govern the legislation of Congress for the District? That there was an “implied faith” to that effect in the cession of the ten miles square! The acts of cession tell their own story. And so

does the clause of the Constitution authorizing the acceptance by Congress. With any such reservation, Congress had no constitutional authority to accept it, nor could its possession have answered the well known objects of the Constitution in providing for such a District. It had been found that Congress could not act independently while sitting in a location controlled by State policy, and State authority. Virginia and Maryland knew all this, and they understood and ratified the Constitution, before the cession was made. And to say that Congress must not abolish slavery in the District, without a vote from the inhabitants, is to establish a principle which would *wholly abrogate* the legislative authority of Congress over the District, and leave it in a state of anarchy, without any civil government, at all! The power of Congress to abolish slavery in the District, has never, until within a few years, been denied, and has been conceded by the most eminent statesmen of the South—by those now loudest against the exercise of the power.

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#### CHAPTER IV.

#### OF THE LEGALITY OF SLAVERY, BY THE CONSTITUTIONS OF THE SLAVE STATES.

State of the Question—Abolition of Slavery in Massachusetts—Slavery Unconstitutional in Delaware—Is Slavery Constitutional in Maryland?—Other States—North Carolina, South Carolina, Louisiana, Kentucky, Tennessee, Mississippi—Conclusion.

If slavery be inconsistent with the Constitution of the United States, it is natural to inquire whether it be consistent with the Constitutions of the States wherein it exists.

And this question resolves itself into another, namely, whether the spirit and letter of those Constitutions agree, in the main, with the Constitution of the United States, or in other words, whether they embody “a republican form of government” which “the United States” have guarantied “to every State in this Union”—whether, like the States formed out of the North Western Territory, they are “republican States” and can “have no slavery?”

To answer this question in the affirmative, is to say that slavery in these States is illegal, because contrary to the State Constitutions. To answer it in the negative, is to say that Congress is bound to interfere, under the fourth section of the fourth article of the Federal Constitution, and provide for them republican forms or constitutions of government.

## ABOLITION OF SLAVERY IN MASSACHUSETTS.

In one of the States where slaves were formerly held, a judicial decision, without any statute enacted by the legislature, declared that slavery was illegal.

"In Massachusetts, it was judicially declared, soon after the Revolution, that slavery was virtually abolished by the Constitution, and that the issue of a female slave, though born *prior* to the Constitution, was born free."—*Kent's Commentary*, page 252.

In giving the opinion of the Court in the case of the Commonwealth versus Thomas Aves, in 1833, Chief Justice Shaw said:—

"How, or by what act, particularly, slavery was abolished in Massachusetts, whether by the adoption of the opinion in Somerset's case, as a declaration and modification of the Common Law, or by the *Declaration of Independence*, or by the *Constitution of 1780*,\* it is not now very easy to determine, and it is rather a matter of curiosity than utility, it being agreed on all hands, that if not abolished before, it was so, by the declaration of rights. \* \* \* \*

"Without pursuing this inquiry farther, it is sufficient for the purposes of the case before us, that by the Constitution adopted in 1780, slavery was abolished in Massachusetts, upon the ground that it is contrary to natural right and the plain principles of justice. The terms of the first article of the declaration of rights are plain and explicit. 'All men are born free and equal, and have certain natural, essential, and unalienable rights, which are the right of enjoying and defending their lives and liberties, that of acquiring, possessing, and protecting property.' It would be difficult to select words more precisely adapted to the abolition of slavery."—*Pickering's Reports*, page 209-10.

## SLAVERY UNCONSTITUTIONAL IN DELAWARE.

Is Massachusetts, the only State in the Union that has a "bill of rights," and a "Constitution" that recognizes the great central truth of republicanism that "all men are born free and equal?"

What say "our brethren of the South?" Do they come in for no share of the great national birthright of freedom? Let us take a peep into their Constitutions, and see.

The Preamble of the Constitution of Delaware, we have quoted, in another connection. Very manifestly there can be no constitutional slavery in Delaware, and nothing is wanting but a judicial decision, like that of Massachusetts, to abolish slavery in that State. "*All men*" are declared by the organic law of Delaware, to have, by nature, the rights of worshipping and serving their Creator according to the dictates of their consciences, of enjoying and defending life and *liberty*, of acquiring and protecting reputation and *property*." No statute could be enacted more authoritative or explicit than this. The Constitution of Delaware provides

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\* That is, the Constitution of the State.

for freedom of speech and of the press and religious freedom. It says:—

“The PEOPLE shall be secure in their PERSONS, houses, papers, and possessions, from unreasonable searches and SEIZURES.

“No attainer shall work *corruption of blood*, nor, except during the life of the offender, forfeiture of *estate*.”

In the entire document we meet with no discrimination on account of color, and no mention of slavery or slaves.

If slavery be not illegal in Delaware where is it illegal? This Constitution was adopted in 1792, and (we believe) *after* the judicial abolition of slavery in Massachusetts, so that the legal effect of such Constitutions could not have been unknown or forgotten.

### IS SLAVERY CONSTITUTIONAL IN MARYLAND?

“We, the delegates of Maryland,” &c., &c., declare, “That *all government* of right originates from THE PEOPLE, is founded in compact only, and *instituted solely for the GOOD OF THE WHOLE*.”

“That the INHABITANTS of Maryland are entitled to the COMMON LAW OF ENGLAND.”

[‘Entitled to emancipation from slavery’ could scarcely have been more explicit.]

And again, the phrase “*the inhabitants* of Maryland” is repeated. Further, it is declared—

“That the right, in the PEOPLE, to participate in the legislature, is the best *security of liberty* and the FOUNDATION OF ALL FREE GOVERNMENT.”\*

“That EVERY MAN has a right to petition the legislature, for the redress of grievances, in a peaceable and orderly manner.”

“That paupers ought not to be assessed for the support of government, but *every other person* in the State ought to contribute his proportion of public taxes,” &c.

“That *monopolies* are odious, contrary to the *spirit of a free government*, and ought not to be suffered.”

“That no title of nobility, or HEREDITARY HONORS ought to be granted in this State.”

[No exception is here made for the “hereditary honors” of white persons or of slaveholders.]

The above are found in the Declaration of Rights, in the Constitution which was framed in August, 1776.

### OTHER STATES.

NORTH CAROLINA.—“*Declaration of Rights*.”—“That all political power is *vested in*, and *derived from* the PEOPLE ONLY.” “That no man, or set of men are entitled to exclusive or separate emoluments or *privileges* from the community, but in consideration of public services.”—“That the freedom of the press is one of the great bulwarks of liberty, and therefore ought never to be restrained.” “That ALL MEN have a natural and unalienable right to worship Almighty God, according to

\* Another definition of “a republican form of government.”



the dictates of their own consciences.”\* “That a frequent recurrence to *fundamental principles* is absolutely necessary to preserve the BLESSINGS OF LIBERTY.” “That *perpetuities* and *monopolies* are contrary to the genius of a FREE State,† and OUGHT NOT TO BE ALLOWED.”

In the Constitution of North Carolina, (as in those of Delaware and Maryland,) we find no establishment of slavery, and no authority vested in the legislature to establish it. On the contrary, the Constitution (Article 44) explicitly says—

“That the *Declaration of Rights* is hereby declared to be a part of the Constitution of this State, and ought never to be violated on any pretence whatever.”

How then, can there be any *constitutional validity* in the remarkably rigid slave statutes of North Carolina, by which the rights of conscience are violated, “fundamental principles” outraged, and monopolies established?

SOUTH CAROLINA.—Even in this State, the Constitution provides for “the free exercise and enjoyment of religious profession and worship” and “trial by jury,” “The liberty of the press, shall be forever inviolably preserved.” Other parts of the document, however, are in bad keeping with these provisions, which, if carried out, would not fail to abolish slavery. Which part of the Constitution is to be considered indicative of its “spirit,” and which must be set aside as anomalous, we will not now stop to inquire.

LOUISIANA.—The Preamble to the Constitution declares that—“We, the representatives of the PEOPLE,” &c.; “in order to secure TO ALL the citizens thereof, the enjoyment of all the rights of life, LIBERTY, and property, do ordain and establish the following Constitution or form of government, and do mutually agree with each other, to *form ourselves* into a *free*‡ AND independent State,” &c., &c. The Constitution says—

“Printing presses shall be free to every person who undertakes to examine the proceedings of the legislature, or any branch of the government, and no law shall ever be made to restrain the right thereof. *The free communication of THOUGHTS and OPINIONS is one of the INVIO- LABLE RIGHTS OF MAN, and every citizen may freely speak, write, and print on ANY SUBJECT, being responsible for the abuse of that liberty.*”  
—Article 21.

“All laws contrary to this Constitution shall be NULL AND VOID.”—  
Article 25.

The gentlemen of the legal profession will have little difficulty in determining whether the following statute of Louisiana, a part of its slave code, is constitutionally “null and void.”

\* And yet, in North Carolina, the laws forbid the slaves to be taught to read the Bible, or to be in possession of one! “In North Carolina the law prohibits a free colored man, whatever may be his attainments or ecclesiastical authority, to preach the Gospel.”—*Jay's Inquiry*, page 33.

† Implying that North Carolina was to be a “free State.”

‡ But is Louisiana a free State?

"If any person shall use any language from the *bar, bench, stage, pulpit*, or any *other* place, or hold any *conversation* having a TENDENCY to promote discontent among free colored people, or insubordination among slaves, he may be imprisoned at hard labor, not less than three nor more than twenty-one years, or he may suffer DEATH, at the discretion of the Court."

KENTUCKY.—"We, the representatives of the PEOPLE of the State of Kentucky, in Convention assembled to secure to *all* the citizens thereof the enjoyment of the right to life, LIBERTY, and property, and of pursuing happiness, do ordain this Constitution for its government."

Among other things, the Constitution declares—

"That all power is inherent in *the people*, and all *free* governments are founded on *their authority*, and instituted for their peace, safety and happiness."

"That *all men* have a natural and indefeasible right to worship Almighty God, according to the dictates of their own consciences."

Freedom of speech and of the press are then secured in the same language as in the Constitution of Louisiana.

Strange to tell, the same document contains a provision that the legislature shall have "no power to pass laws for the emancipation of slaves without the consent of their owners, or without paying their owners, previous to such emancipation, a full equivalent in money for the slaves so emancipated!"

It might well be questioned whether the *legislature* could enact or whether the *Judiciary* or *Executive* could enforce or execute slave laws without a violation of the *fundamental principles* of the Constitution of Kentucky! When a document stultifies itself in this manner, it would puzzle "strict construction" to make any thing but contradiction and self-subversion out of it. And "the spirit" of such a Constitution might be difficult to be ascertained. We will only say that if the *free* features of this Constitution are to stand as valid, the *pro-slavery* features are to be set aside as incongruous and impracticable. But if these *latter* are to be held valid, then the *former* must be nugatory, and the Kentuckians are wholly without the benefits of their declarations and provisions in favor of liberty.

TENNESSEE.—*Declaration of Rights*.—"That all power is inherent in the PEOPLE, and all FREE governments are founded on their authority and instituted for their peace, safety, and happiness; for the advancement of *those ends*, they have AT ALL TIMES an inalienable and indefeasible RIGHT to alter, reform, or ABOLISH the government, in such MANNER, as they may think proper."

The "inalienable and indefeasible RIGHT" of "the people" of Kentucky—(nearly one third of whom are slaves and free "people" of color—and a small minority of whom are slaveholders)—to ABOLISH the government they live under, "in such MANNER as they may think proper" is pretty strongly stated in this article—and with less of the peace principle in it, than the "incendiary abolitionists" would have been likely to have introduced!—Furthermore it is declared—

"That *all men* have a natural and indefeasible right to worship Almighty God according to the dictates of their own conscience."—"That the PEOPLE shall be secure in their *persons*, houses, papers, and posses-

sions, from unreasonable searches and seizures ;"—“ that no conviction shall work *corruption of blood*, or forfeiture of estate ;”—“ that the printing presses shall be free” &c. (as in the other Constitutions) “ that *perpetuities* and *monopolies* are contrary to the genius of a free State, and *ought not to be allowed*.”

[That is, no “compromise” ought to be made with them !]

The lawyer would have had a hard task that should undertake to prove, before a Court of sound and upright constitutional jurists, the constitutionality of slavery in Tennessee, notwithstanding the aristocratic structure of the State government, operating to strengthen the slave power.

MISSISSIPPI.—“ We the Representatives of THE PEOPLE inhabiting the western part of the Mississippi territory,” &c. &c., “ in order to secure to the *citizens thereof* the rights of life, liberty, and property, do ordain and establish the following Constitution and form of government, and do mutually agree with each other to form ourselves into a FREE and independent State.”

“ That the general, great, and essential principles of *liberty*” [not slavery] “ and *free government* may be recognized and established, we declare,” &c.

The “declaration of rights” then proceeds to affirm—“ that all political power is inherent in the PEOPLE,” &c., (repeating the declaration of Tennessee with its right to “*abolish*,” &c.) also that “ every citizen may freely speak, write and publish his sentiments, on all subjects,” &c.—that “ no law shall ever be passed to curtail or restrain the liberty of speech or of the press”—“ that the *people* shall be secure in their *persons*, &c. from unreasonable *seizures*”—that “ the right of trial by jury shall remain inviolate”—that “ *every* citizen has a right to bear arms for the defence of *himself* and the State,” &c. &c.

To give these “great and essential principles of liberty,” all the force of organic law, paramount to statute law, it is carefully added, by way of “conclusion” to this Declaration—

“ To guard against transgression of the high powers herein delegated we declare that every thing in this article is *excepted out of* the general powers of government, and shall *forever remain inviolate* ; and that *all laws contrary thereto*, or to the following provisions, *shall be void*.

But the Constitution itself, in utter forgetfulness of these “*essential principles*,” provides, that “ the general assembly shall have no power to pass laws for the emancipation of slaves without the consent of their owners, *unless where a slave shall have rendered the State some essential service*, in which case the owner shall be paid a full equivalent for the slaves so emancipated.”\*

A number of curious questions might be started here. Does not the declaration of rights render null and “void”

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\* QUERY.—Do the Mississippians consider their “*slaves better off*” in slavery than emancipated ?

the above provision of the Constitution? Or must the *latter* stand, and make "void" the *former*? *Both* can not be valid, of course, or if they are, the Constitution itself is "null" by equipoise.

Suppose a judicial decision, under "the great and essential principles of liberty" which "shall forever remain inviolate" and of which it is declared in the bill of rights that "all laws contrary thereto" (not excepting the slave laws) "*are void*"—should declare the slaves in Mississippi emancipated—the question arises whether the prohibition to the "*general assembly*" forbidding *them* to emancipate the slaves, would apply to the *Judicial Court*?

What endless illustrations have we, of the utter incompatibility of SLAVERY with FREE INSTITUTIONS! To suppose them both to exist, legally, at the same time—what can exceed the absurdity? And how manifest that a slave State can not enjoy a republican government!

#### CONCLUSION.

These specimens must suffice. In a former chapter we cited some of the pro-slavery and other associated aristocratic features of the Constitutions of the slave States, in proof that they did not exemplify republicanism, nor harmonize with "a republican form of government." With all due impartiality we have presented the brighter features of some of those Constitutions, now.

Some of those Constitutions, (that of Delaware, at least, if not some others,) may fairly be claimed, we think, as subversive of *slavery*, though containing features, even then, so aristocratic and anti-republican, as to warrant the interference of Congress, under the national "guaranty" of "a republican form of government to every State in this Union." And a correction of those abuses and oligarchies, in the slave States, would carry with it the abolition of slavery.

In some of the slave States, then, slavery is illegal, because contrary to the Constitutions of the States where it exists. In others of them, the Constitutions are so palpably anti-republican as to call loudly for the constitutional guaranty of the United States. If in others of them, the Constitutions are difficult of exposition, Congress has a right to demand distinctness and decision.\* In the cases where the

\* In the correspondence of the Oberlin Anti-Slavery Committee with Hon. Wm. Andrews, (vide *Friend of Man*, July 31, 1839,) we meet with the following paragraph:

"Of all the Constitutions ever formed by the people of the Union and of the States, *not one fails to recognize the paramount authority and supremacy of God.* To quote the words of every Constitution, would be laborious to us and tire-



Constitution is for liberty and the statute for slavery, the Congress has a right to demand that they shall harmonize. The "spirit of the Constitution" was not in quest of shells, of shadows, or shams, when it demanded for every State in this Union a republican form of government—nor will a *free people*, deserving the appellation, be satisfied with the mere *name*, instead of the *thing* signified by it. A government *may* be anti-slavery without being republican. But it *can not* be republican without being anti-slavery.

## CHAPTER V.

### THE DECLARATION OF INDEPENDENCE.

The charter of liberty, but never claimed as a "guaranty of slavery"—The Declaration, a part of American Constitutional Law—Proofs of this position—A Constitution of Government defined—The Constitution of 1776, still unrepealed—Historical facts—The alternative—The Declaration of Independence, if the act of separate States, equally fatal to legal slavery—The Declaration, never repudiated by the slave States, is still binding upon them.

In disposing of the claims of SLAVERY, under the Constitution of 1787–9—we have disposed of *all its pretensions* to a "compact," "compromise" or "guaranty," on the part of the General Government, or of the people of the United States. Back of that date, and beyond the framing of that instrument, it never adventures to travel. It never alludes to the "compact" made in the "Articles of Confederation" in 1778, nor to the earlier "compact" of the Declaration of Independence in 1776. It has an instinctive dread of *those* "compacts."

Not so with the claims of LIBERTY and EMANCIPATION. They are of older date, and gain in freshness and vigor the farther they are traced.

### THE DECLARATION, A PART OF CONSTITUTIONAL LAW.

When we closed our direct examination of the Federal Constitution of 1787–9, and of the Constitutions of the several States, we did not close our examination of AMERICAN CONSTITUTIONAL LAW.\* This statement will doubtless sur-

some to our readers, but for the benefit of those who wish to examine the matter, we refer to some of the articles where this recognition can be found. See Hogan and Thompson's Edition of the American Constitutions, pages 3, 5, 6, 13, 21, 25, 27, 48, 49, 68, 75, 95, 118, 126, 154, 159, 192, 203, 220, 227, 262, 273, 299, 294, 318, 327, 355, 362."

\* A law volume before us bears the following title page. "CONSTITUTIONAL LAW, comprising the Declaration of Independence, the Articles of Confederation, the Constitution of the United States, and the Constitutions of the several States composing the Union." Washington, Gales & Seaton, 1820.

prise some, whose idea of a Constitution of civil government never goes beyond the piece of paper or parchment they have been accustomed to hear called by that technical name. The thought never entered their minds that the American people could have had a Constitution of Government, before the sittings of the Convention of 1787. Still less have they ever suspected that any thing *besides* the document then framed can be properly considered as forming a part of our Constitutional Law, at the present time, or that any remains of *such law* could survive the wreck of *that paper*, if all the authenticated *copies* of it should be lost or burned, or if, by any foreign invasion or domestic disorder, or dismemberment, the present arrangements under it should be thrown off of their present track.

#### DEFINITION OF A CONSTITUTION.

“*Constitutional Law*” has been defined to be “the *fundamental principles* of a government, showing the true intent, meaning, and end of its formation. And the effect of these declared principles will be to limit all authority under the government *to their own spirit*, and make whatever is done contrary to them unconstitutional and void.”\* In strict accordance with this, is the definition of our approved lexicons. A “*Constitution*” according to Webster is “the established form of government in a State, kingdom, or country; a system of *fundamental rules, principles*, and ordinances, for the government of a State or nation.”

#### THE CONSTITUTION OF 1776, STILL UNREPEALED.

Were the United States without any thing of this kind until 1787–9? And is there no manner of connection between the present Federal Constitution and the Constitutional Law that preceded it?

We have had a *National Government* ever since the 4th of July, 1776, a National Government that had its “Continental Congress”—its “Continental army”—its “Continental money” too, as some may remember. This National Government carried on a National war, appointed National officers to transact public affairs—entered into foreign negotiations—procured recognitions from foreign courts of its legitimate authority, and of the independence of the Nation it governed—made treaties, concluded a peace.

And was this *National Government* without any “*funda-*

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\* “*Seventy-six*—a writer in the *Emancipator* of Jan. 4, 1838.

*mental rules and principles*”\* all this time? Was it even without a *written*, a documentary, an authenticated, a National *expression* of those “fundamental rules and principles?” What was the “Declaration of Independence” with its self-evident truths, and its declared object of *instituting a new government, founded on those principles*, but such an expression? And what was that expression but the promulgation of a Constitution? The *minute details* of the government, to be sure, were not then fixed upon. That was left for the “Articles of Confederation,” two years afterwards, and these were altered into the Federal Constitution about ten years after that time, other “Amendments” have been since added, and other changes may hereafter take place.

In all this, has the “Declaration of Independence” been *repealed*? *If it has*, then “the thirteen United States of America” have ceased to be such, and have sunk back into British colonies again. *If it has not*, then its essential and distinctive character, as the *fundamental basis and ground work of AMERICAN CONSTITUTIONAL LAW*, remains unchanged, and in full force.

We are the same “United States of America” that we declared ourselves “*of right*” to be, in July, 1776. We claimed *the right*, on the ground of the self-evident truths we then recognized as the basis of the new government. If we have renounced those self-evident truths, or have ceased to place them at the basis of our National Government, then we have renounced the right to have any National Government at all.

### HISTORICAL FACTS.

A vague notion prevails that, in the first place, there were thirteen separate, disunited States, wholly independent of each other, and that this condition of things continued until the adoption of the Federal Constitution of 1787-9, when, for the first time, they became “*United States*,” and under the authority of a General Government. But this theory is at war with incontrovertible historical facts, and stubborn chronological dates. Before the Declaration of Independence, July 4, 1776, there *were no independent sovereign States*; and the Declaration which asserted their independence, asserted likewise their union, as “United States of

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\* A Constitution may either be written or unwritten, or (like the British Constitution) partly written and partly unwritten. Common Law is the soul of the British Constitution. “Unwritten or Common Law—a rule of action which derives its authority from long usage, or established custom.”—*Webster*.

America," affirming, moreover the *object* of their assumed independence to be *the institution of a new government* (not governments) upon the basis of the self-evident principles then recognized.\* There has been no *State sovereignty* that has not been connexed with the *unity* of the States, and *modified by it*. The "Articles of Confederation," that were several years under discussion before their adoption, were shaped nearer in accordance with the notion of separate State sovereignty than either the Declaration of Independence or the Federal Constitution, yet even this document, described, to some extent, a General Government, but being found defective, in this very particular, the Convention of 1787 was called, and the theory of the declaration of Independence was, in the new Constitution, more completely restored.

For a more minute statement of these facts, the reader is referred to an oration delivered at Newburyport, by John Quincy Adams, July 4, 1837. A few extracts from that oration will not only confirm what we have said, but help to indicate the important ends which those facts should be made to subserve.

"They had been British colonies—distinct and subordinate portions of one great community. In the struggle against one common oppressor, by a moral centripetal impulse, they had spontaneously coalesced into ONE PEOPLE. They declare themselves such, in express terms, by this paper. The members of the Congress who signed their names to the Declaration, style themselves the Representatives, not of the separate colonies, but of the United States of America, in Congress assembled. No one colony is named in the Declaration, nor is there anything on its face, indicating from which of the colonies, any one of the signers were delegated. They proclaim the separation of *one* people from another. They affirm the right of the PEOPLE to institute, alter, and abolish their government; and their final language is—'We do, in the name, and by the authority of the *good People* of these colonies, solemnly publish and declare that these *United Colonies* are, and of right ought to be, FREE AND INDEPENDENT STATES.' The Declaration was *not*, that each of the States was separately free and independent, but that such was their *united* condition. And so essential was their Union, both in principle and in fact, to their freedom and independence that, had one of the colonies seceded from the rest, and undertaken to declare herself free and independent, she could have maintained neither her independence nor her freedom.

"And, this ONE PEOPLE did notify the world of mankind that they *thereby* did assume, 'AMONG THE POWERS OF THE EARTH' the separate and equal station to which the laws of nature and of nature's God entitled them."—Pages 11, 12.

"The idea of separate State sovereignty had evidently no part in the composition of this paper."—*Ib.* page 33.

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\* None of the *separate States* had declared independence before this *national* declaration. The Constitutions of all the States are of later date, except that of New Jersey, which bears date July 2, 1776, but in this document no mention is made of independent State sovereignty. On the other hand, the term *colony* was used, both in the Constitution and in commissions, writs, &c., &c., until Sept. 1777, when an act of legislature directed the word *State* to be substituted for *colony*.



And "the idea" of a "compact," "compromise," and "guaranty," in support of interminable despotism, for the purpose of *bringing into the Union* the States that *were* already in the Union, and *had been* in it for about a dozen years, when the Constitution of 1787-9 came into being, is "an idea which evidently formed no part in the composition of (*that*) paper."

We have heard Mr. Adams' testimony that the Declaration of Independence established a *National Government* for "the United States of America." Let us now hear his testimony concerning the *character* of the government *then and thus* established.

"The elements and principles for the formation of a new government, were all contained in the Declaration of Independence, but the adjustment of them to the condition of the parties to the compact, was a work of time, of reflection, of experience, of calm deliberation, of moral and intellectual exertion." &c.—Page 28.

In other words, the Declaration of Independence comprises and embodies the fundamental "elements and principles" of AMERICAN CONSTITUTIONAL LAW. The adoption of the "Articles of Confederation," first, and of the "Constitution" of 1787-9, afterwards, are to be regarded in the light of "exertions" for the "adjustment" and proper application of these great principles of Constitutional Law. These *principles*, asserted in the original Declaration of 1776, when the nation came into existence, continue to constitute now, (as they always have done, and will continue to do) the vital essence, the pith, the marrow, and the substance, of our Constitutional Law. The mere outward form, the minutely detailed *provisions* of the subsequently written Constitution—these are but the *instruments*, of which those principles are the living spirit and substance. To accept of the former as a substitute for the latter, and to their exclusion, would be to accept of the shell, and throw the kernel away—to idolize the instrument and spurn the blessings it was intended to procure for us. Let us hear from Mr. Adams again.

"The Declaration of Independence first organized the social compact on the foundation of the Redeemer's mission on earth. *It laid the corner stone of human government on the first principles of Christianity.*"—Page 6.

How could it do this, if its authority were not to be recognized, as comprising fundamental Constitutional Law? Speaking still of the Declaration, Mr. Adams says, again:

"For the first time since the creation of the world, *the act* which CONSTITUTED a great people, LAID THE FOUNDATION OF THEIR GOVERNMENT upon the *unalterable and eternal principles* of HUMAN RIGHTS."

That which “constitutes” and “lays the foundation of government”—must be called a *Constitution of government*, so long as words are used to signify things and convey ideas.\* One extract more must suffice.

“The Declaration itself did not even announce the States as sovereign, but as united, free, and independent, as having power to do all acts and things which independent States may of right do. *It acknowledged, therefore, A RULE OF RIGHT, PARAMOUNT to the power of independent States, and virtually disclaiming all power to DO WRONG.*† This was a novelty in the moral philosophy of nations, and it is *the essential point of difference* between the SYSTEM OF GOVERNMENT announced in the *Declaration of Independence*, and those systems which had until then prevailed among men.‡ *A moral Ruler of the Universe, the Governor and Controller of all human power, is the ONLY unlimited SOVEREIGN* acknowledged by the Declaration of Independence, and it claims for the United States of America, when assuming their equal station among the nations of the earth, only the power to do all that may be done of right.”—Page 26.

How much of a “compact,” “compromise,” toleration, or “guaranty” in favor of SLAVERY—the acknowledged “sum of all villanies”—may be made and entered into, “OF RIGHT,” we need not stop to inquire. No person of sane mind and sound morals could mistake so plain and palpable a point. Nor will any one worth arguing with, or answering, pretend that there can be *constitutional or legal slavery* in any State, Province, District, or Territory, where our American “Declaration” of self-evident truths, and of inalienable human rights is to be regarded as holding the authority of CONSTITUTIONAL LAW.

The courts of Massachusetts have settled that question, long ago; and the same Declaration of self-evident truths that makes slavery illegal and unconstitutional in Massachusetts, makes it illegal and unconstitutional in the District of Columbia, and in Georgia, and throughout all the “United States of America”—by whom that Declaration was made.

In further confirmation of our doctrine of the supreme and paramount authority of the Declaration of Independence over all our *other* Constitutions and laws, we have another high authority to cite.

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\* Whether Mr. Adams would agree with us in *calling* it a Constitution, we can not say. But we insist that he has stated the fact correctly, and that the *existence* of such a fact is equivalent to the existence of a constitution of civil government. If our premises are attested by those who dissent from our conclusions, the proof of those premises is so much the stronger; and of our conclusions, our readers will judge for themselves.

† Mr. Adams had previously noticed and repudiated the doctrine of British lawyers that “*sovereignty* is identical with unlimited and illimitable power” “the principle, the *resistance* to which was the vital spark of the American revolutionary cause.”

‡ In this sentence, you may substitute the words *Constitution* and *Constitutions* in the place of *system* and *systems*, without changing the meaning; that is, if Noah Webster knew the meaning of the words. See his Dictionary, as before quoted.

In 1820, the Hon. John C. Spencer said in the New York Legislature—  
 “I contend that the first act of our nation (the Declaration of Independence,) being a solemn recognition of the liberty and equality of all men, and that the rights of liberty and happiness are inalienable—was the corner stone of our confederacy—and is *above all Constitutions, and all Laws.*”

THE ALTERNATIVE.—THE DECLARATION OF INDEPENDENCE, IF THE ACT OF SEPARATE STATES, EQUALLY FATAL TO LEGAL SLAVERY.

So far as the illegality of slavery in the United States is concerned, it will not materially change the result, if we take, by way of supposition and as a basis of argument, the theory concerning State sovereignty and the Federal Government, the most opposite to the one that has just been maintained.

We will suppose then that the Declaration of Independence had been the declaration of separate, disunited States; each State acting by and for itself alone. To make the case as strong as possible, we will suppose that on or about the 4th of July, 1776, there had been no “Continental Congress,” but that each separate colony in its separate Congress assembled, had promulgated its Declaration of Independence, of self-evident truths, of inalienable human rights, and of separation from Great Britain, for the object of establishing governments based on those fundamental principles or truths, and for the security of those rights.

In that case we should have had, (in these thirteen separate Declarations of Independence, of self-evident truths, of human rights, and of the establishment of new governments on the basis of those truths and rights,) thirteen distinct constitutions of government, of the same character with the Constitution of Massachusetts, which abolished slavery in that State. Such being the fact, the Federal Convention of 1787 could have found no legal slavery in existence to form a “compact” or “compromise” *about*—to “guaranty” or to tolerate.

And even if we should not insist upon the technicality of a “Constitution” or of “Constitutional Law,” (either State or National,) in this matter—the same result will not be vitally changed. It will still be true that there is no legal slavery in any one of the thirteen original States, and consequently none in the new States growing out of them, or founded by them.

Whether the act of a State be called a Constitution, or a statute, an ordinance or a declaration, it nevertheless remains *an act of the State*, and carries with it the *authority and power* of the State. And since no one disputes that on the 4th of July, 1776, the Declaration of Independence, so fami-

liar to us all, *was actually made* by the thirteen States, it follows that by the power of that act, **SLAVERY WAS ABOLISHED** in each and every one of those States, and has been illegal ever since, because slaves, once emancipated, can not be re-enslaved by any subsequent act. No one supposes that Massachusetts, Connecticut, or New-York, could now legally reduce again to slavery the persons or the posterity of those whom they have once emancipated. And the more strongly the slave States insist that the Declaration of Independence must be considered the act of the separate sovereign States, and not the *united* act of the "*People*" of the United States, northern and southern, the more strongly do they claim the glorious act of the **ABOLITION OF SLAVERY**, in 1776, as *their own act*; the less cause will they have of complaint, as though it were forced upon them by stress of circumstances and by the urgency or the overpowering predominancy of northern votes; and at all events, and in either case, they may congratulate themselves that the act of emancipation was drafted by one of their most honored citizens, so that they should not feel themselves aggrieved if "*full faith and credit* shall be given, in each State, to the *public acts*, records, and judicial proceedings of every other State," agreeably to the provision of the Federal Constitution, Article 4, Section 1.

THE "DECLARATION," NEVER REPUDIATED BY THE SLAVE STATES, IS STILL BINDING UPON THEM.

Whatever theory we adopt, therefore, it remains true that there has been no legal slavery in the United States since the 4th of July, 1776. Having been abolished *then*, there is no power, or authority, either State or National, that could have established it *since*. There is nothing, either in the Articles of Confederation of 1778, or in the Constitution of 1787-9, that even professes to have done so, or that recognizes the legality of any slavery then existing. By no public act did either of the thirteen States that put forth the Declaration of Independence, in 1776, signify to the Nation or to the world their renunciation of that Declaration, or of any truth, principle, or doctrine contained in it, or their desire to be considered as not being bound by it, up to the time of the framing and ratification of the Federal Constitution: no: nor have they done so, from that day to this! Having assented to the Federal Constitution without any such renunciation, disclaimer, or repudiation of their emancipation act of 1766, it ill becomes any of the States to complain that their most honorable act is considered as binding upon them



*now*; and that they should be expected, (according to the express provision of the Constitution of 1787-9, which they assisted to frame and having ratified) to maintain "*a republican form of Government*" in accordance with the definition of such government, which their own Declaration of Independence, of self-evident truths, and of inalienable human rights, is well known to contain. The world and the Nation have a fair right to hold them bound by their act of 1776, and to consider and treat all the slavery existing since that date as existing in violation of law, and of their own most solemn declarations and plighted faith. Having adopted the Federal Constitution without any repudiation of their former declarations and principles, the public sentiment of the civilized world should require of them that they construe that Constitution in accordance with those principles, *and abide by its provisions, as thus construed.*

## CHAPTER VI.

### OF SLAVERY UNDER COLONIAL AUTHORITY.

#### ITS LEGALITY QUESTIONED.

By what authority, or by what right, did the colonists or the colonial legislature maintain slavery? Was that authority derived from the Crown, Parliament, Judiciary or usages of Great Britain? If *not*, from whence was it derived, while the colonies recognized their colonial obligations to the parent State? They claimed no right of sovereignty, then.

It will hardly be maintained, except by the school of McDuffie, that the right of slaveholding, or of enacting slave laws, is derived from the law of *nature* or of divine *revelation*. No lawyer ever thought of going to the "*Common Law*" for a warranty of slavery or of slave laws.

Undoubtedly the claim was, and is, that slavery was sanctioned and legalized by the parent State. A standing apology for American slavery has been found in the fact that English slavers were permitted by the British Government, to visit the colonies, with cargoes of slaves. This has even been called forcing their slavery upon us, just as though we were *obliged to buy* what the slavers were *permitted to offer* us. The original draft of the Declaration of Independence, by Mr. Jefferson, made it one of the grave charges of the colonies against the King of Great Britain, and one of the proofs that he was *a tyrant*, and not fit to govern a free people, that he permitted this traffic to be carried on.

If there be any force or propriety in complaints of this nature against the Government of Great Britain, it must be because the legality of slavery in the mother country made it difficult or impracticable for the colonial authorities to declare it illegal.

But *slavery in England* was abolished in the judicial decision of *Somerset's case* by Lord Mansfield in 1772. It was abolished on the broad principles of *Common Law*. The decision therefore was, that slavery *never had been legal*, in England! It was, in fact, a re-affirming of an old decision, in the case of *Galway versus Caddee*, before Baron Thompson, at Guildhall, as early as 1699, thirty years previous to the counter-opinion of York and Talbot, in 1729.\*

As slavery, therefore, *never had been legal* in England, *how could it ever have been legal in the colonies?* The colonists brought the Common Law of England to this country with them, and their recognition of it, as a rule of judicial proceedings, was among their most cherished rights. If slavery was illegal in England, because it was contrary to the Common Law, how could it be legal in the colonies, where the authority of the same Common Law was recognized? And if the English courts could discover and decide its illegality, why could not the colonial courts do the same? And why were they not bound to do it, as well as the courts in England? The Common Law declares that "human laws are of *no validity* if contrary to the law of nature, which is coeval with mankind, and dictated by God himself." If this principle was permitted to be recognized, even at the court of King's Bench, is it credible that there was any authority in *colonial* legislation too high and too sacred to bow to the same principle when enforced by a colonial court?

Whatever plea of deference to English decisions might have availed for the colonies or their courts, up to 1772, the memorable decision of that period left them without that excuse afterwards.† Chief Justice Shaw, of Massachusetts, in his opinion on the case of the Commonwealth vs. Thomas Aves, [vide Pickering's Reports, page 209-10, already quoted,] is inclined to think that the judicial abolition of sla-

\* Vide C. Stuart's life of Granville Sharpe, page 85.

† It may be pleaded, perhaps, that the delay of Great Britain, until 1807, wholly to prohibit the foreign slave-trade, and until very recently to abolish her colonial slavery, prevented the judicial decision of 1772, abolishing slavery in England, from being held as a precedent, by the colonies. This *criminal delay* of Great Britain we should neither excuse nor imitate, as we should do, were we longer, as a nation to permit, in any portion of our empire, a violation of our great National "compact" of 1776. But why was the interference of the British Parliament needed, in the matter of her colonial slavery, but because the colonial courts failed to follow, as they should have done, the precedent of the Somerset case? The fact that *English* soil was kept free from slavery while it existed in the West Indies, proves that *Virginia* soil might have been.

very in that State, soon after the Revolution, *may* have been made "by the adoption of the opinion in *Somerset's case*, as a declaration and modification of the Common Law." If an American court, might do this *after* the separation from Great Britain, why not *before*?

These questions will have been understood as preparatory to another, viz: *Whether there was any legal slavery in the colonies during the four years from 1772 to 1776?*

If there *was*, then the Common Law permitted in the colonies, what the same Common Law would not permit in the mother country. If there was *not*, then there is no legal slavery in the United States of America *now*, unless the Declaration of Independence, and the glorious Revolution have introduced it again, or stood sentinel against the Common Law, to prevent it from discharging its proper functions! And if this may be believed, what may we refuse to believe?

But on these points we shall not stop to insist. We leave it for the lawyers to decide. Such of them as can find legality in slavery *any where*, may contrive to find it *every where*, for aught we can tell.

Whoever would discover the legality of slavery must pursue his inquiries further back than the Constitution of '87—the Declaration of '76—or the decision of '72. On the coast of Africa, and in the perpetration of deeds which, if proved in a Court of Justice, would swing up the perpetrators, as pirates, to the yard-arm, by the laws of all civilized nations, THERE it is, and to those ACTS that we must look, if any where, for the ground and origin of *lawful slavery*.\*

And as to colonial authority, the question is not so much where the colonies could find authority and power enough to *abolish* their own slave laws—as where they could find authority and power enough to *enact* them? Such authority and power "the English Common Law," (the paramount law of the realm,) does not concede to the Monarch and Parliament of Great Britain.

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\* "Sir William Blackstone examines those causes of slavery" (crimes, captivity and debt, as cited by Paley) "by the Civil Law, and shows them all to rest on unsound foundations, and he insists that a state of slavery is repugnant to reason, and the principles of natural law. The Civil Law admitted it to be contrary to natural right, though conformable to the usage of nations."—*Kent's Commentaries*, page 247.

[And since, by Common Law, "human laws are of no validity if contrary to the law of nature," the "usage of nations" can not make slavery legal.]

"*Opinion of Marshall, C. J.* in the case of the *Antelope*, 10 Wheat. 120. He is speaking of the slave-trade, but the remark itself shows that it applies to slavery. "That it is contrary to the law of nature will scarcely be denied.—That every man has a natural right to the fruit of his own labor, is generally admitted, and that no other person can rightfully deprive him of those fruits, and appropriate them against his will, seems to be the necessary result of the admission."—*Pickering's Reports*, p. 211. Quoted in *opinion of C. J. Shaw, case of the Commonwealth vs. Thomas Aves*.

Lord Brougham enjoys the highest reputation for legal learning. Let us hear him on this point.

"Tell me not of rights, talk not of the property of the planter in his slaves. I deny the right. I acknowledge not the property. The principles, the feelings of our *common nature* rise in rebellion against it. Be the appeal made to the *understanding*, or to the heart, the sentence is the same that rejects it. There is a law above all human enactments, written by the finger of God on the heart of man—and by that law, eternal and unchangeable, while men despise fraud and loathe rapine, and abhor blood, they shall reject with indignation, *the wild and guilty phantasy, that man can hold property in man.*"

In strict accordance with this opinion of Brougham, was the decision of Judge Harwinton of Vermont, who affirmed that before the claimant of a fugitive slave could make his claim valid, he "must produce a bill of sale from the Almighty."

## CHAPTER VII.

### NATURE AND FOUNDATION OF GOVERNMENT AND LAW.

Parchments, papers, precedents—Whence their authority?—Compacts—on whom binding?—Government as an ordinance of God—The "social compact" an exploded fiction—A more substantial theory needed—Where shall we find it?—Civil government a science; compared with other sciences—Has its foundation in *facts*—Nature and relations of man—Scripture prophecy—First principles immutable—Can not be set aside by compacts and parchments—Recognized by Common Law—What is Common Law?—Whence its paramount power?—One universal law—Founded on the Divine Will—Constitution of civil government not arbitrary—Absurdities can not become law—Law can not be created by man—can only be discovered, obeyed, and applied—Harmony of our National documents with these principles—Objections considered.

#### PARCHMENTS—PAPERS—PRECEDENTS, &c.

We have been speaking of *law*—of *government*—of *constitutions* of government—of things *legal* and *illegal*. And, in doing this, we have hitherto been chiefly occupied in expounding *papers*, *parchments*, *documents*, *records* of things done or agreed to be done, somewhere, and by somebody, before the greater part of the present generation were born. We have looked into *books*, *cited authors*, *authorities*, *usages*, *precedents*, *customs*.

It is high time to ask ourselves whether this is all we know or may know, of law, government, constitution (or principle) of government—of the legality—illegality—validity—or nullity of statutes or enactments claimed to be *laws*.



Does the pith and gist of the matter lie in the paper—the parchment? Or lies it in something beyond, or back of the parchment, or the paper? Have we found the *thing*, when we have found the parchment, the paper, or have we found only what purports to be a *statement*, a *description* of the thing itself?

If there should happen to be a mistake in the paper,—if there should be knavery or stupidity, or accidental blunder in the printer or penman of the document, have we no remedy but to take it as it is, for better or for worse? Are there no *things*, to which we can gain access, *ourselves*, to correct the blunders that may have been made, by *others*? If not, who can tell whether or no the printers, the penmen, or those who set them at work, had access to any such veritable realities, themselves, or whether they spun the whole web out of their own brains?

#### COMPACTS—ON WHOM BINDING?

And whence the *binding authority* of laws, constitutions, and governments? You prove to me that a certain “compact” was made some fifty years ago, while I was an infant, or before I was born. You authenticate to me the *fact*. Very well. But how does that fact bind *me*, who had no part in the bargain? If, as is often said, the *whole* authority of civil government is founded in “compact,” how can that authority be binding on any persons except those by whom the compact was made? Suppose I do not choose to come into the “compact,” what have its provisions to do with *me*? My being born in the country where the “compact” was made does not render me a party to the compact. I had a right to be born when and where my Creator saw fit, and am not beholden to the makers of paper compacts for my right to be where Divine Providence has placed me, and to be a man, on my own proper account and behoof. My good father or grandfather, (peace to their ashes,) may have signed the compact, as they had a right to do, if they saw fit. But they stood in their own shoes, and I stand in mine—as truly a man as either of them, with the same unimpaired powers—with the same high responsibilities to my Creator, to my country, and to my race, that they had. They had no power to make me less of an independent man, and a voluntary free agent, than they were themselves. And they have not done it.

Thus, at least, men will reason, (and have reasoned,) when they wish to throw off the obligations, either of civil government in general, or the particular government they

live under, or any enactments which they think oppressive, or which they dislike. And it might be very convenient to have something more logical to confute them with, than papers and precedents, something more august to overawe them than full bottomed wigs, (now grown into disuse) something more satisfactory than gibbets, something more philosophical and more Christian than powder and ball, especially when wielded as *substitutes for the right*, instead of instruments of *suppressing the wrong*.

And most manifestly, civil government must have some other and higher authority than “mere compact” if we would claim for it the reverence due to “an ordinance of God.”

### “SOCIAL COMPACT” A FICTION, &c.

The date, moreover, and the locality of that great town-meeting of the human race, in which it was agreed to emerge from “a state of nature” and “enter civil society” with “a part of their rights surrendered for the better protection of the rest”—(as the old legend hath it,) is a matter that the paper and parchment records have never yet reached. The recent explosion of that wretched fiction of the old writers of civic romance, has left a vacuum in the theory of government, as existing in the literature of the age, which it is high time to fill up with *substantial truth*, if the high obligations of GOVERNMENT and of LAW are to retain any hold upon the ever progressive popular mind.

Who can tell us *whether there be* any such substantial truth to inculcate, unless our conceptions of government, of constitution and of law, can run back of mere libraries and precedents, of legislative enactments, of legal decisions, of conventional agreements, and fasten hold of SOMETHING of which all these are but the *exponents*, the *declarations*, the *expressions*?

### CIVIL GOVERNMENT, A SCIENCE, &c.

In every other department of human activity and of human science, it is expected that the operator and the student should be able to fix his grasp upon *something in the form of fixed realities*, besides the mere papers and books that profess to give him *an account* of them. He is expected to examine *the things* for himself, and to use his parchments only as *means* to facilitate this examination. Why should the science of government be an exception?

The practical mariner, with his chart of the Indian Ocean before him, never mistakes his chart for the ocean itself.

He explores the ocean, with its rocks, reefs, and islands, by the help of his chart, but never gives the credit to his chart of being more correct than the ocean, when he finds reefs and islands in the latter, that are not laid down in the former! He does not substitute the *paper description* of the thing for the *thing itself*. Why should the *ship of State* be guided by a petty pedantry that would be derided by the rudest sailor before the mast? With eyes to survey the great "*self evident truths*" of *political science*, why should statesmen or jurists, deserving the name, run the commonwealth, (committed, with all its vast interests into their hands, as pilots) into the midst of the thick breakers and rocky reefs, plain in sight before them, merely because they can not find them marked out distinctly, on their antiquated paper charts?

What would be thought of the mathematician who should identify the sciences of arithmetic, or geometry, or algebra, *with his book*, his approved and highly *authoritative book* on those subjects? Who should never speak of "*arithmetic*" with any higher meaning to the word than *the book* he holds in his hands? But such a village pedagogue, could we find one, would well deserve a place beside the grave senator, or the learned judge of the Supreme Court, who has no higher meaning to the phrase, "*the Constitution of the United States*" than the written or printed parchment or paper, agreed upon, and drawn up by the Convention that assembled in 1787—forgetful that a *Constitution of Government*, like a theorem in algebra, or a fact in chemistry or botany, or zoology, or astronomy, is a palpable, veritable, *existing fact*, whether any books or papers have described them correctly, or undertaken to describe them at all.

And this opens before us another series of questions—which the present generation will have to decide upon, and in the decision settle the destinies of their country perhaps for ages to come. Their decision *will not alter the facts and principles* upon which they are called to decide. But it will fix the condition of the Republic, by determining its *adjustment* to those unchangeable principles and facts.

#### NATURE AND RELATIONS OF MAN.

The problem may be stated in some such queries as these—Is there, after all, any thing in *the social nature of man*, in the *relations* of man to man, in the *duties* growing out of those relations, (duties therefore, imposed upon man by the Author of his being,) which lay a foundation, (as they create a moral necessity) for such a science as that of CIVIL GOVERN-

MENT, a science as fixed and determinate, in the nature of things, as any of the other demonstrative sciences, based upon "*self-evident truths*:" a science no more to be altered by parchments, or conventional arrangements or precedents, than the sciences which enable the persons acquainted with them to traverse land and ocean by steam—a science which written constitutions, enacted statutes, and recorded decisions, can more or less correctly or incorrectly *describe*, (or perchance contradict,) *but can never alter nor change*.

Unless there be such a *science of legislation and of law*, which mankind can be *taught*, can *understand*, and can *apply*, then civil government itself becomes a cheat, and legislation becomes a farce, and jurisprudence becomes an usurpation, which the onward and rapid march of mankind must speedily detect, and woe to the conservators of a law and a government that shall prove themselves to be such contemptible shams, then.

#### SCRIPTURE PROPHECY—PRINCIPLES IMMUTABLE.

If the period ever arrives—(and the harp of prophecy hath hymned it—the plighted word of Jehovah hath spoken it)—that the kingdoms of this world shall become the kingdoms of our Lord and of his Christ—controlled by his righteous laws, wielded for the fulfilment of his benevolent purposes of equity, mercy, peace on earth and good will to man, that period will be ushered in by a correct knowledge and an honest application of those **FIRST PRINCIPLES OF CIVIL GOVERNMENT** which are as immutable and as moveless as the throne of God himself, which recorded precedents can no more modify than they can the courses of the stars, which conventional compacts can no more eclipse or blot out, than they can the sun and the moon, which enacted statutes can no more repeal than they can the laws of gravitation, which judicial decisions can no more cancel or set aside, than they can the downward rush of the torrent, or the flight of the winged lightnings of heaven. The kingdoms, or the pretended republics that will not honor these principles, identical with the laws of God, shall come to naught, those nations shall utterly be wasted. They shall be wearied with their own way, and filled with the fruit of their own doings. But the meek shall inherit the earth. The upright will be guide in his way, and by *righteousness* (a practical regard to the *right*) shall the nations of the saved be *exalted*.

To conceptions of civil government thus spiritual and sublime, by what means, by the use of what symbols, shall



the present generation of statesmen and jurists be raised ? Deep buried under huge folios of precedents and of records, of technicalities and of conventionalisms, in the fog of ever calculating but never calculated expedients and expediences, in the slough of never ending bargains and barter, in which the needy are sold for a pair of shoes and the fruit of righteousness turned into hemlock,—with what parchments, with what papers, with what documents, with what records, with what enactments, with what decisions—save those of the Sacred Scriptures, that they trample under their hoofs, shall such a generation of jurists and statesmen be reached ?

#### COMMON LAW, SECRET OF ITS POWER.

The volumes of the Common Law, doubtless, embodied and reechoed as they are in our own Declaration of Independence, and in the Preamble of the Federal Constitution, technically so called, come the nearest to the instrumentalities we are seeking, of any thing within our reach. Our jurists, (aye, and our statesmen for the most part,) have heard of the *Common Law*, and have learned something of its authority and power. And the very soul of the Common Law is identical with the fundamental truths we would insist upon.

For *what* is the Common Law, the highest standard of appeal in our civil courts—the Common Law, that corrects hoary abuses, reverses judicial decisions, annuls statutes, revises charters, repeals parchments, abashes omnipotent parliaments with its presence, and annihilates royal prerogatives with a nod—the Common Law, that Luther like, looks confederate emperors in the face, and to their most authoritative mandates answers, calmly, “No !” The Common Law that stepping into the Court of King’s Bench, and taking up the slave code, avers, solemnly and decisively that there is not power nor authority enough in the British Government, Kings, Lords, Commons, Judiciary and all, to make that iniquitous code, legal ! that *says* this, and is *obeyed* !

From what source is this mighty and resistless power of the *Common Law* derived ? Did King and Parliament that are overawed in its presence, at any time, enact the authority they hate, and before which they cower ? When Common Law would present its credentials, does it show a commission signed by the dignified officials on the bench to whom it gives law, and whom it claims as its servants ?

Or is it to the book makers, the compilers, the learned recorders, the writers, the printers, the publishers, or the

hawkers, of Common Law maxims, that we must look, for the sources of the high authority with which they are clothed ?

Let us open our eyes to the fact that the Common Law is superior, and paramount, and prior to all these—that she “teaches as one having authority, and not as the *scribes*”—the mere copyists or commentators of parchments—that she speaks in her own name, or rather, in the name of universal, essential, *uncreated, unalterable law*, or in other words, in the name of the most high and eternally supreme God.

Common Law has power, not because it is printed in certain antique volumes of sheep-skin, that the librarians preserve and that the courts reverence, but because it is the voice of the Creator, speaking through the human nature he has created—the voice of human conscience and of common sense, uttered and engraven by *human suffering and human necessity*, demanding justice, equity, redress of wrongs, at the hands of those who undertake to govern men, and demanding it with an importunity that has forced open the ears and subdued the spirits even of unjust judges that fear not God, nor regard man. Such in a word (instead of a volume) is an epitome of what might be denominated by way of title page, the “*natural history of the COMMON LAW*,”—a history by no means confined to the Anglo-Saxons, but coeval with the history of man’s struggles for his rights, the world over. Even in China itself, there is a Common Law\* that the Emperor may not annul—that the Emperor must needs obey.

### ONE UNIVERSAL LAW.

An expansion and purification of this idea of Common Law may introduce to us, the *one universal law*—the law of nature, sometimes termed—under which all nations are placed—a law from which civilization and the social state does not release men—a law which it is the *sole business* of civil government to ascertain and enforce, in the *execution of justice, between a man and his neighbor*. “The rightful power of all legislation,” says Thomas Jefferson, “is to declare and enforce only our *natural RIGHTS and DUTIES*, and take *none* of them *from* us. When the laws have declared and enforced all this, they have fulfilled their functions.” This *universal law*, then, is the *ONLY* law. Whatever conflicts with this, is to be repudiated (as say likewise the wri-

\* In the parlance of the Canton merchants—“*old custom*”—founded on common notions of equity—which the mandarins or magistrates are expected to see enforced. This Common Law of China goes far to counterbalance and hold in check the otherwise unlimited despotism of that empire.

ters on Common Law) "not as being *bad* law, but as being no law!" Hence, nothing subversive of equity deserves the name of law, or is to be *treated* as law, by any of the officers, the Judges, or the executors of law. There is, and there can be, no valid or binding law, at variance with justice or equity, either on earth or in heaven.

#### SOURCE OF LAW, IN THE DIVINE WILL.

Power belongeth unto God. All rightful rule and authority are from him. By bestowing social and moral existence on men, he has, of necessity, imprinted *the law* of that social and moral existence upon them. By giving them the *nature* they possess, he has bound them by *the law* of that nature. By establishing the *relations* they sustain to each other, he has indicated the *duties* they owe to each other. Among these duties is *the duty of the COMMUNITY* (not a select portion of them) to see that the rights of *each member* of the community are respected, and unfringed. From the plagues of Egypt to the present hour, the universal history of the providential government of God, over the nations, attests this great truth, that it is the *MASSSES* and *not* the *officials merely*, of the nations, that God and nature hold responsible for the executing of *just judgment*. Fealty to *justice*, not to *parchments* is the constant burden of his requisitions.

#### CONSTITUTION OF GOVERNMENT NOT ARBITRARY.

If this be a truthful account of civil government, then the *Constitution* of civil government has a *foundation in nature*—that is to say, in the *DIVINE WILL*. It is an *existing matter of fact*, as much so as is the constitution of the *human body*. Of the *latter*, the physiologists, (Dr. Combe for example) may have given a more or less reliable account, in the books they may have written. Of the *former*, the Convention of 1787 may have traced more or less correctly the outlines, and indicated the appropriate details. In the former case, an individual, in the latter case, a convention, and afterwards an entire nation, assumed the responsibility of the statements. Both are statements and not *creations*, nevertheless. The Federal Convention, and "we the People of the United States" could no more *make* a Constitution of civil government, out of a cloth of our own fabric, and upon any principles that might suit our own selfishness or caprice—a Constitution that should be *valid* and *binding*; than Dr. Combe and an university of physiologists could *make*, at their own whim or pleasure, a constitution of the



human body, that should be binding upon all the anatomists and surgeons of a nation, or on all who should have occasion to contract their muscles, and move their limbs!—In both cases, it is *God* who has *made* the constitutions. All that men in either case can do, is to *learn*, to *teach*, and to *use* them.

As much as this, the *Common Law* says, when it denies that human authorities can make wicked and unjust laws, that can be binding and valid. As much as this, the *Declaration of Independence*, by obvious implication says, when it claims for the new Republic the power to “do all acts and things which independent States may, OF RIGHT, do.” As much as this, the Preamble of the Federal Constitution recognizes, and the same is supposed in the provision to correct its own mistaken statements of “justice” by “amendments” of its provisions.

#### ABSURDITIES CAN NOT BECOME LAW.

Why should any men stultify themselves, or degrade by broad caricature, the claims and prerogatives of that civil government they would teach men to respect, by inculcating the reverse of this doctrine? How would they have us regard a provision of a paper Constitution that incidentally (by way of describing a boundary line, for example) should bid us locate the river Ohio west of the Missouri, or the Rocky Mountains east of the Mississippi? Would our judges and jurors, in all coming time, be obliged thus to regard and describe them? Suppose there were a constitutional “compact” or a legislative enactment, that the three angles of every right angled triangle should be “deemed, taken, reputed, and adjudged in law to be” equal to *seven* right angles, would the provision be binding? Could it be made “*Constitutional Law*?” Suppose it were provided that all *elephants* should henceforth be *mice*, and that *men* should henceforth be *things*—*immortal spirits*, *chattels personal*! Could either of those provisions become *law*? To say so, would be to *deny the distinctive characteristics of law itself*; to say that it is not to be defined either by order, by fitness, by truthfulness, or by rule:—that it is, in no way, distinguishable from waywardness, from falsehood, from lawlessness, from caprice!

#### MAN MAY DISCOVER, BUT NOT CREATE, LAW.

The alchymists of the dark ages supposed it possible to obtain by compound, a substance, which they called the philosopher’s stone, the touch of which should transmute whatever it touched into gold! We smile and wonder at



their folly, and we may justly claim that, *except* in the science of jurisprudence, the world has made some creditable progress, since the times of the alchemists. But in the midst of the nineteenth century, under the light of the Christian Scriptures, in the presence of the Common Law, and almost seventy years after the glorious American Declaration of self-evident truths, and inalienable human rights, it is still held and maintained by grave and learned men, that certain pieces of parchment or paper, emanating from certain places, and prepared by certain hands, possess the power of transmuting whatever folly or selfishness may have been pleased to write upon them into *valid and authoritative law*! Have power to counteract creative wisdom and goodness, by transforming an immortal *man* into a *thing*! Compared with this dream of the jurists of the nineteenth century, the dreams of the alchemists of the eleventh century may almost be pronounced philosophical as well as harmless.

The time, however, can not be far distant, when these matters will be better understood—when legislative and judicial halls will be occupied in the rational task of *learning, declaring, and applying* to the affairs of men, the great principles of *eternal, immutable LAW*, rather than in vain attempts, either to *CREATE*, or to *ANNUL* it. To establish a *manufactory* and to commission *manufacturers of LAWS* for the government of the solar system, laws for the government of mineral, vegetable, or animal existences, chemical laws, or laws of hydrostatics; all this might pass for a rational amusement (as it seems indeed to have been the amusement of philosophers, before Lord Bacon's time) in the comparison with the still current usage of attempting to manufacture CONSTITUTIONAL LAW, the law by which the *social relations of man*, in political communities, must be governed! When shall the *inductive* instead of the constructive and hypothetical philosophy be applied to the science of *government*! When will men see that they can only *discover* and *obey*, not *construct*, the laws of the political world! That their paper constitutions can only *teach* and *declare*, not *originate*, the fundamental principles of a civil government!

To the case in hand. Human beings can no more construct a civil government, with binding authority over human beings, yet without the power to "execute judgment between a man and his neighbor," than they can construct a globe without the quality of roundness, or a cube without its six sides. Abortions and absurdities they may multiply as they please. "There *is no* authority but of God," and

the authorities that *be* (that truly possess any binding authority) “are *ordained* of God.” These “are a terror not to good works, but to the evil.” They are “the ministers of God” “attending continually upon this very thing,” and on no other ground, and in no other character, can they rightfully claim to be recognized, or deserve the “tribute” of support. [Paul, in Rom. XIII, 1—9.] *A Constitution of civil government, therefore, that tolerates slavery, is an absurdity that can not exist.*

#### OUR NATIONAL DOCUMENTS.

With these plain principles of common sense, of Common Law, and of our common Christianity, the national documents of our common country, in the main, happily harmonize. Our Declaration of Independence and the Constitution of 1787–9 taken as members of each other, considered as a *whole*, and construed by its *spirit*, constitute a creditable statement of Constitutional Law, and even without the amendments of which they are susceptible, are amply sufficient in their provisions, for either the legislative or judicial abolition of slavery. An oath to support the Constitution of the United States is an oath to promote “*justice*” and secure “*liberty*,” an oath to adhere to its “self-evident *truths*” and vindicate *inalienable human rights*. The legislator perjures himself who takes this oath and refuses to legislate against slavery. The judge perjures himself who takes this oath, and does not, when the opportunity offers, proclaim deliverance to the captive.

#### OBJECTIONS CONSIDERED.

It has been said by some of the friends of the enslaved, that in our political efforts in their behalf, we must not attempt to wield powers of government not conceded to us by those expositors of the Constitution whom the Constitution itself provides (to wit,) the Judges of the Supreme Court—that we must give to the Constitution the same construction *they* give it, in the active exertions *we* put forth. But what if *they* have construed it *wrong*? Are our consciences to be bound by *theirs*? Or may the judicial department dictate beforehand, to the legislative? May not a member of Congress in the discharge of *his* duty, vote for the abolition of slavery, as *he* understands his lawful powers, and throw upon the judges the responsibility of pronouncing the legislation unconstitutional, if they can? And besides, for what object do the friends of God and humanity wield their political powers, in this grand struggle, but to rescue *every* department of the government, the judicial, as well as the

legislative and executive, from the polluting and withering touch of the slave power? Are not *the People* as truly responsible for a sound judiciary as a sound legislature? Is it not quite as essential for the security of their rights? And does not the Constitution recognize in the PEOPLE the constitutional guardians even of the judiciary itself—the ultimate expositors of the Constitution? “JUDGES and officers shalt thou make thee in all the gates which the Lord thy God giveth thee, throughout thy tribes, and they shall rule the people with just judgment.” If the present judges decide wrongfully, we must indeed *submit* to their decisions for the time being, though we must *not assist* in executing their unrighteous decisions, nor lose a moment’s time in putting things in train for providing *better successors* in their place, whenever their seats shall be vacant.

The views of law that have been presented will alarm some with the apprehension that they would tend to fluctuation and change—that conflicting views of *justice and equity* would beget constant uncertainty and doubt. The very reverse of all this is the truth. The “*glorious uncertainty of the law*” (so convenient to those who subsist on the spoils,) has grown into a proverb long ago. Who does not know that conflicting constructions of statutes and parchments, decisions versus decisions, precedents arrayed against precedents, and technicalities against common sense, have made law a vast game of hazard, now, and that a few maxims of that same COMMON LAW we would exalt, constitute almost the only element of stability, of certainty, or of justice, that remain. On this point, and as a conclusion of the whole discussion, we introduce a further extract from the correspondence of the Oberlin Anti-Slavery Committee with Hon. Wm. Andrews.

“It may be said that this rule makes every man his own constitution maker and law maker. There might be some force in this, if the law of God were some indefinite thing which man’s arbitrary will might mould into any shape it pleased. But the principles of fundamental morality are more clearly and determinately laid down by ethical writers than the import of the Constitution of the Union by the sages of the law. Our public men could have all the motives for giving the divine law an honest interpretation which urge them to interpret the Constitution honestly. Mistakes might be committed which would need to be corrected by the courts, or by subsequent legislation; but the general consequences would be a gradual improvement in the moral aspect of society. The fountain would be healthy and the stream salutary. Law would be venerable in the eyes of men, and the sublime words of Hooker would be no rhetorical flourish:—‘Of LAW there can be no less acknowledged than that her seat is the bosom of God, her voice the harmony of the world: all things in heaven and earth do her homage, the VERY LEAST AS FEELING HER CARE, AND THE GREATEST AS NOT EXEMPTED FROM HER POWER. Both angels and men, and creatures of what condition soever, though each in different sort and manner, yet all with uniform consent, admiring her, as the mother of their peace and joy.’”

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28. Eminent Statesmen, Civilians, &c. Washington, Jefferson, Madison, Dr. Franklin, Judge Wilson, Gov. Randolph, Wm. Pinckney, John Jay, Gov. Pownall, Dr. Rush, Gen. Heath, Judge Story, Chief Justice Ellsworth, Judge Marshall, James G. Birney, Mr. Duponceau, Hall's Law Journal, Hawk's N. C. Reports, Chief Justice Taylor, Lord Chief Justice Holt, Lord Tenterton, John C. Spencer, Lord Brougham, Judge Harwinton, &c. &c. Also, among slaveholding and pro-slavery statesmen, &c. B. Watkins Leigh, J. C. Calhoun, Henry Clay, Gov. McDuffie, Mr. Pickens, Mr. Hammond, Prof. Dew, Gen. Harrison, Gov. Marcy, Gov. Everett, Mr. Upshur, Mr. Stevenson.
29. Observations on the American Revolution, published by Congress in 1779.
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32. Gerrit Smith, Esq. Constitutional Argument.
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34. S. P. Chase, Esq.—in Cincinnati Herald.

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OF THE FEDERAL CONSTITUTION OF 1787-9, IN ITS  
BEARING ON SLAVERY, AS EXHIBITED IN THE  
PRECEDING VIEW.

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#### 1.—OBJECT OF THE CONSTITUTION.

"We, the people of the United States, in order to form a more perfect Union, establish justice, ensure domestic tranquility, provide for the common defence, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America."—[Preamble.]—See pages 7, 40, 84, 97.

#### 2.—POWERS CONFERRED.

"This Constitution, and the laws of the United States which shall be made in pursuance thereof, and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land, and the judges in every State shall be bound thereby, any thing in the Constitution or laws of any State to the contrary notwithstanding."—[Article 6, Clause 2.]—See pages 41, 96, 109, 110, 113.

"The Congress shall have power"—"To regulate commerce with foreign nations, and among the several States, and with the Indian tribes."—[Art. I, Sect. 8, Clause 3.]—See pages 43, 96.

"To exercise exclusive legislation, in all cases whatsoever over such district (not exceeding ten miles square) as may, by cession of particular States, and the acceptance of Congress, become the seat of government of the United States, and to exercise like authority over all places purchased, by the consent of the legislature of the State in which the same shall be, for the erection of forts, magazines, arsenals, dock-yards, and other needful buildings."—[Art. I, Sect. 8, Clause 16.]—See pages 65, 96.

"To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the government of the United States, or in any department or officer thereof."—[Article 1, Section 8, Clause 17.]—See pages 41, 84, 96.

"The Congress shall have power to dispose of, and make all needful rules and regulations respecting the territory or other property belonging to the United States," &c.—[Article 4, Sect. 3, Clause 2.]—See pages 63, 96.

#### 3.—INHIBITIONS OR LIMITATIONS OF STATE POWER.

"No State shall"—"pass any bills of attainder, ex post facto law, or law impairing the obligation of contracts, or grant any titles of nobility."—[Art. I, Sect. 10, Clause 1.]—See page 68, &c., 96.

"No State shall, without the consent of Congress"—"keep troops, or ships of war in time of peace,"—"or engage in war, unless actually invaded, or in such imminent danger as will not admit of delay."—[Art. 1, Sect. 10, Clause 2.]—See pages 68, 75, 96.



*Free black men support white no black citizens*

"The citizens of each State shall be entitled to all the privileges and immunities of citizens, in the several States."—[Article 4, Section 2, Clause 1.]—See pages 75, 96.

"The United States shall guaranty to every State in this Union a republican form of government," &c.—[Article 4, Sect. 4.]—See pages 46, 96.

#### 4.—GUARANTIES OF THE RIGHTS OF INDIVIDUALS, UNDER COMMON LAW.

"The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated; and no warrants shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized."—[Amendments, Article 4.]—See pages 94, 96.

"No person shall be"—"deprived of life, liberty, or property, without due process of law," &c.—[Amendments, Article 5.]—See pages 58, 93, 95.

"Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof, or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances."—[Amendments, Article 1.]—See pages 91, 96.

#### 5.—FURTHER RECOGNITIONS OF COMMON LAW.

"The privilege of the writ of habeas corpus shall not be suspended, unless when, in cases of rebellion or invasion, the public safety may require it."—[Article 1, Sect. 9, Clause 2.]

"No bill of attainder or ex post facto law shall be passed."—[Ib. Clause 3.]—See page 96.

"The trial of all crimes, except in cases of impeachment, shall be by jury, and such trial shall be held in the State where the said crime shall have been committed," &c.—[Article 3, Sect. 2, Clause 3.]—See page 95.

"Treason against the United States shall consist only in levying war against them, or in adhering to their enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court."—[Article 3, Sect. 3, Clause 1.]—See pages 33, 95.

"The Congress shall have power to declare the punishment of treason, but no attainder of treason shall work corruption of blood, or forfeiture, except during the life of the person attainted."—[Ib. Clause 2.]

"The President, Vice President, and all civil officers of the United States, shall be removed from office, on impeachment for, and conviction of, treason, bribery, or other high crimes and misdemeanors."—[Article 2, Sect. 4.]

"In suits at Common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury shall be otherwise re-examined, in any court of the United States, than according to the rules of the COMMON LAW."—[Amendments, Article 7.]—See page 93.

"Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted."—[Amendments, Article 8.]—See page 93.

"The enumeration, in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people."—[Amendments, Article 9.]

"In all criminal prosecutions the accused shall enjoy the right to a speedy and public trial by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him, to have compulsory process for obtaining witnesses in his favor: and to have assistance of counsel for his defence."—[Amendments, Article 6.]—See page 93.

#### 6.—QUALIFICATIONS OF VOTERS AND OFFICERS.

No distinction of color, of race, or of parentage is specified in the Constitution, among the qualifications either of voters or officers.—See pages 86, 89.

#### II.—Portions of the Document claimed by the slaveholders as being a guaranty of slavery, or a compromise in their favor.

1.—"Representatives and direct taxes shall be apportioned among the several States which may be included within this Union, according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three-fifths of all other persons," &c.—[Article 1, Sect. 2, Clause 3.]—See pages 27, 89.

2.—"The migration or importation of such persons as any of the States now existing shall think proper to admit, shall not be prohibited by the Congress, prior to the year one thousand eight hundred and eight, but a tax or duty may be imposed on such importation, not exceeding ten dollars for each person."—[Article 1, Sect. 9, Clause 1.]—See pages 28, 89.

3.—"No person held to service or labor in one State, under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor, but shall be delivered up on claim of the party to whom such service or labor may be due."—[Article 4, Sect. 2, Clause 3.]—See page 21.

4.—"The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."—[Amendments, Article 10.]—See page 37.

5.—"Congress shall have power"—"to provide for calling forth the militia to execute the laws of the Union, suppress insurrections and repel invasions."—Article 1, Sect. 8, Clause 14.]—See page 30.

6.—"The United States [shall guaranty to every State in this Union a republican form of government and] shall protect each of them against invasion, and on application of the legislature, or of the executive, (when the legislature can not be convened) against domestic violence."—[Article 4, Sect. 4.]—See page 35.

*Persons = what it meant is one thing & how it reads is another.*

1 All unconditionally Persons

2 humane "

3 Leasing "

4 Election "

5-7 "

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*Slaves  
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1894









